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**FEDERAL REGISTER**  
 OF THE UNITED STATES  
 1934  
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Washington, Tuesday, November 25, 1947

## TITLE 7—AGRICULTURE

### Subtitle A—Office of the Secretary of Agriculture

#### PART 1—ADMINISTRATIVE REGULATIONS

##### APPENDIX—DELEGATION OF AUTHORITY

Pursuant to the authority vested in me by the Research and Marketing Act (Public Law 733—79th Congress; 60 Stat. 1082), and in confirmation of authority informally granted heretofore, there is hereby delegated to the Administrator, Research and Marketing Act, the authority contained in said act to enter into contracts with such public or private organizations or agencies, or individuals as he may find qualified to carry on work under the act, when in his judgment the work to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture; to enter into cooperative agreements with public or private organizations or agencies or individuals for cooperative work authorized to be carried on under the act; to make advance, progress or other payments in connection with such contracts and agreements; to determine the means through which results of research and investigations are to be made available to the public; and to perform such related functions as may be necessary.

The Administrator may redelegate to his principal assistants any or all of the authority vested in him hereunder, and may redelegate to heads or acting heads of bureaus, agencies, and offices of the Department, subject to laws, regulations, requirements, and procedures applicable to cooperative agreements, any or all of the authority vested in him hereunder with respect to cooperative agreements. (Sec. 3, 60 Stat. 238, 60 Stat. 1082; 50 U. S. C. Sup. 1002)

Done at Washington, D. C., this 19th day of November 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 47-10365; Filed, Nov. 24, 1947;  
8:53 a. m.]

### Chapter XV—Administrator, Research and Marketing Act

#### PART 1901—CONTRACT WORK

##### CONTRACTS WITH PUBLIC AND PRIVATE AGENCIES, FIRMS, AND INDIVIDUALS

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AUTHORITY: §§ 1901.1 to 1901.8, inclusive, issued under 60 Stat. 1082.

§ 1901.1 *Determinations.* The Research and Marketing Act of 1946 (Public Law 733—79th Congress; 60 Stat. 1082) authorizes contracts with public and private agencies, firms, and individuals for conducting research and marketing services work upon a determination that the work will be carried out more effectively, more rapidly, or more economically, than if performed by the Department of Agriculture. This determination shall be made by the Administrator, Research and Marketing Act, or his designated representative.

§ 1901.2 *Types of research and service work.* (a) Under the authority in section 10 (a) of Title I of the act, such contracts may provide for research and investigation on utilization and associated problems in connection with the development and application of present, new, and extended uses of agricultural commodities and products thereof as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which supplies exceed or may exceed existing domestic demands. The work undertaken by private organizations is to be supplementary to and coordinated with research at laboratories of the Department; such work shall be coordinated with that performed by States and other public and private agencies participating in such research.

(b) As provided by Title II of the act, contracts may be entered into for the purpose of conducting research and service work, making and compiling re-

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ports and surveys, and carrying out other functions relating thereto, in connection with research to improve the marketing, handling, storage, processing, transportation and distribution of agricultural products.

**§ 1901.3 Discoveries and release of information.** All discoveries and other results of all work, including patents, carried on under contracts with private organizations, are to be made available to the public through dedication, assignment to the Government, or such other means as the Administrator, Research and Marketing Act, or his designated representative shall determine. No information may be released by the organization concerning the initiation, progress, or results of the project without the concurrence of the Administrator, Research and Marketing Act, or his designee, in such release.

**§ 1901.4 Qualifications.** Contracts will be entered into only with such public and private agencies, firms, and individuals as are qualified to perform the work. The contractor must prove to the contracting officer that he has the legal capacity to enter into the contract, that he has the financial ability to carry out the provisions of the contract, and that he has the ability to perform the work. Proof of other qualifications may be furnished as the contracting officer may require.

**§ 1901.5 Execution and amendment of contracts.** Contracts shall be executed for the Department by the Administrator or Acting Administrator, Research and Marketing Act, as the Contracting Officer. Changes or alterations may be made in the specifications and work to be performed under the contract upon written notice to the contractor by the contracting officer. If such changes in the judgment of the contracting officer

necessitate an increase or decrease in the contract price, equitable adjustment shall be made.

**§ 1901.6 Payments and bonds.** Advance, progress, or other payments may be made where in the judgment of the contracting officer such payments are necessary. However, in cases of advance or progress payments, the execution of an acceptable bond by the private organization will be required, in such amount as may be deemed necessary by the contracting officer to protect the interests of the Government. Bonds may be required in other cases where deemed necessary by the contracting officer to protect the interests of the Government.

**§ 1901.7 Disputes.** Except as otherwise specifically provided in the contract, all disputes concerning questions of fact arising under the contract shall be decided by the contracting officer subject to written appeal by the contractor within 30 days to the Secretary or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime the contractor shall diligently proceed with performance.

**§ 1901.8 Termination.** Contracts may be made for work to continue not more than four years from the date of such contracts. However, the form of contract provides for termination by the contracting officer, in which event payment will be made for the value of the work performed up to and including the effective date of termination.

Dated: November 19, 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 47-10363; Filed, Nov. 24, 1947;  
8:53 a. m.]

## Chapter XXI—Organization, Functions, and Procedures

### Subchapter C—Production and Marketing Administration

[Administrative No. 91]

#### PART 2303—DAIRY BRANCH

##### CENTRAL OFFICE AND FIELD OFFICES

The provisions in § 2303.1 Central Office and § 2303.2 Field Offices are hereby amended in the following respects:

1. The provisions in paragraph (f) (1) of § 2303.1 Central Office (11 F. R. 177a-265) are hereby amended by adding the following to the list of officers and employees of the Dairy and Poultry Inspection and Grading Division to whom final authority has been delegated to act with reference to the administration of those sections of the rules and regulations (7 CFR Part 56) governing the inspection and certification of dressed poultry and dressed domestic rabbits and edible products thereof for condition and wholesomeness which appear opposite their titles:

Assistant National Supervisor—§§ 56.43, 56.44, and 56.46.

2. The provisions in paragraph (a) (3) of § 2303.2 Field Offices (11 F. R. 177a-265; 12 F. R. 3561) are hereby amended by adding thereto the following: "Each regional supervisor of the Poultry Inspection Service has final authority to act with reference to the administration of §§ 56.43, 56.44, and 56.46 of the rules and regulations (7 CFR Part 56) governing the inspection and certification of dressed poultry and dressed domestic rabbits and edible products thereof for condition and wholesomeness."

(Pub. Law 266, 80th Cong., 1st sess., approved July 30, 1947; 7 CFR Part 56)

[SEAL] S. R. NEWELL,  
Acting Assistant Administrator.

NOVEMBER 19, 1947.

[F. R. Doc. 47-10361; Filed, Nov. 24, 1947;  
8:53 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 03-3]

### PART 03—AIRPLANE AIRWORTHINESS; NORMAL, UTILITY, ACROBATIC, AND RESTRICTED PURPOSE CATEGORIES

#### APPROVAL BY ADMINISTRATOR OF CIVIL AERONAUTICS OF MATERIALS, PARTS, PROCESSES AND APPLIANCES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 18th day of November 1947.

Currently effective Civil Air Regulations require approval of certain specified appliances by type certification. Such certification entails submission of detailed data for each appliance or variation thereof, which data must be examined and approved by the Administrator of Civil Aeronautics.

The purpose of this amendment is to simplify and expedite approval by permitting, in lieu of type certification, the establishment and publication of specifications by the Administrator for such appliances. The Administrator will publish the specifications in the form of "Technical Standard Orders" which will be established by him after collaboration with the industry and upon consideration of pertinent aviation industry, Federal, and military specifications. An appliance for which a Technical Standard Order has been so established shall be deemed approved by the Administrator when the manufacturer certifies that the appliance meets the specifications included therein, and the appliance does in fact meet the specifications.

As specifications are formulated for individual appliances now requiring type certification, the Board will consider amending the Civil Air Regulations to delete the type certification requirement for the particular appliance.

The Technical Standard Order system approval may also be used by the Administrator for items such as materials, parts, and processes, as well as for those appliances which now do not require type certification.

The Board finds that this amendment will facilitate the manufacture of air-

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craft by permitting a simpler procedure for obtaining approval of materials, parts, processes, and appliances without any lowering of safety standards.

Interested persons have been afforded an opportunity to participate in the formulation of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 03 of the Civil Air Regulations (14 CFR, Part 03, as amended) effective January 1, 1948:

1. By adding a new § 03.06 to read as follows:

**§ 03.06 Approval of materials, parts, processes, and appliances.** Materials, parts, processes, and appliances shall be approved upon a basis and in a manner found necessary by the Administrator to implement the pertinent provisions of the Civil Air Regulations. The Administrator may adopt and publish such specifications as he finds necessary to administer this section, and shall incorporate therein such portions of the aviation industry, Federal, and military specifications respecting such materials, parts, processes, and appliances as he finds appropriate.

Any material, part, process, or appliance shall be deemed to have met the requirements for approval when it meets the pertinent specifications adopted by the Administrator, and the manufacturer so certifies in a manner prescribed by the Administrator.

2. By repealing § 03.300.

(Secs. 205 (a), 601, 603, 52 Stat. 984, 1007, 1009; 49 U. S. C. 425 (a), 551, 553)

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10396; Filed, Nov. 24, 1947;  
8:48 a. m.]

[Civil Air Regs., Amdt. 04a-1]

#### PART 04a—AIRPLANE AIRWORTHINESS

APPROVAL BY ADMINISTRATOR OF CIVIL AERONAUTICS OF MATERIALS, PARTS, PROCESSES, AND APPLIANCES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 18th day of November 1947.

Currently effective Civil Air Regulations require approval of certain specified appliances by type certification. Such certification entails submission of detailed data for each appliance or variation thereof, which data must be examined and approved by the Administrator of Civil Aeronautics.

The purpose of this amendment is to simplify and expedite approval by permitting, in lieu of type certification, the establishment and publication of specifications by the Administrator for such appliances. The Administrator will publish the specifications in the form of "Technical Standard Orders" which will be established by him after collaboration with the industry and upon consideration

of pertinent aviation industry, Federal, and military specifications. An appliance for which a Technical Standard Order has been so established shall be deemed approved by the Administrator when the manufacturer certifies that the appliance meets the specifications included therein, and the appliance does in fact meet the specifications.

As specifications are formulated for individual appliances now requiring type certification, the Board will consider amending the Civil Air Regulations to delete the type certification requirement for the particular appliance.

The Technical Standard Order system of approval may also be used by the Administrator for items such as materials, parts, and processes, as well as for those appliances which now do not require type certification.

The Board finds that this amendment will facilitate the manufacture of aircraft by permitting a simpler procedure for obtaining approval of materials, parts, processes, and appliances without any lowering of safety standards.

Interested persons have been afforded an opportunity to participate in the formulation of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 04a of the Civil Air Regulations (14 CFR, Part 04a, as amended) effective January 1, 1948:

By adding a new § 04a.07 to read as follows:

**§ 04a.07 Approval of materials, parts, processes, and appliances.** Materials, parts, processes and appliances shall be approved upon a basis and in a manner found necessary by the Administrator to implement the pertinent provisions of the Civil Air Regulations. The Administrator may adopt and publish such specifications as he finds necessary to administer this section, and shall incorporate therein such portions of the aviation industry, Federal, and military specifications respecting such materials, parts, processes, and appliances as he finds appropriate.

Any material, part, process, or appliance shall be deemed to have met the requirements for approval when it meets the pertinent specifications adopted by the Administrator, and the manufacturer so certifies in a manner prescribed by the Administrator.

(Secs. 205 (a), 601, 603, 52 Stat. 984, 1007, 1009; 49 U. S. C. 425 (a), 551, 553)

NOTE: Part 04a is being reprinted. However, until the reprinted Part 04a dated November 1, 1947, has been issued, this amendment 04a-1 should be considered the ninth amendment to the Part 04a dated November 1, 1943.

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10397; Filed, Nov. 24, 1947;  
8:48 a. m.]

[Civil Air Regs. Amdt. 04b-8]

#### PART 04b—AIRPLANE AIRWORTHINESS, TRANSPORT CATEGORIES

APPROVAL BY ADMINISTRATOR OF CIVIL AERONAUTICS OF MATERIALS, PARTS, PROCESSES, AND APPLIANCES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 18th day of November 1947.

Currently effective Civil Air Regulations require approval of certain specified appliances by type certification. Such certification entails submission of detailed data for each appliance or variation thereof, which data must be examined and approved by the Administrator of Civil Aeronautics.

The purpose of this amendment is to simplify and expedite approval by permitting, in lieu of type certification, the establishment and publication of specifications by the Administrator for such appliances. The Administrator will publish the specifications in the form of "Technical Standard Orders" which will be established by him after collaboration with the industry and upon consideration of pertinent aviation industry, Federal, and military specifications. An appliance for which a Technical Standard Order has been so established shall be deemed approved by the Administrator when the manufacturer certifies that the appliance meets the specifications included therein, and the appliance does in fact meet the specifications.

As specifications are formulated for individual appliances now requiring type certification, the Board will consider amending the Civil Air Regulations to delete the type certification requirement for the particular appliance.

The Technical Standard Order system of approval may also be used by the Administrator for items such as materials, parts, and processes, as well as for those appliances which now do not require type certification.

The Board finds that this amendment will facilitate the manufacture of aircraft by permitting a simpler procedure for obtaining approval of materials, parts, processes, and appliances without any lowering of safety standards.

Interested persons have been afforded an opportunity to participate in the formulation of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 04b of the Civil Air Regulations (14 CFR, Part 04b, as amended) effective January 1, 1948:

1. By adding a new § 04b.05 to read as follows:

**§ 04b.05 Approval of materials, parts, processes, and appliances.** Materials, parts, processes, and appliances shall be approved upon a basis and in a manner found necessary by the Administrator to implement the pertinent provisions of the Civil Air Regulations. The Administrator may adopt and publish such specifications as he finds necessary to administer this section, and shall incorporate therein such portions of the aviation industry, Federal, and military

specifications respecting such materials, parts, processes, and appliances as he finds appropriate.

Any material, part, process, or appliance shall be deemed to have met the requirements for approval when it meets the pertinent specifications adopted by the Administrator, and the manufacturer so certifies in a manner prescribed by the Administrator.

**2. By repealing § 04b.300.**

(Secs. 205 (a), 601, 603, 52 Stat. 984, 1007, 1009; 49 U. S. C. 425 (a), 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10398; Filed, Nov. 24, 1947;  
8:48 a. m.]

[Civil Air Regs., Amdt. 06-1]

**PART 06—ROTORCRAFT AIRWORTHINESS**

**APPROVAL BY ADMINISTRATOR OF CIVIL AERONAUTICS OF MATERIALS, PARTS, PROCESSES, AND APPLIANCES**

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 18th day of November 1947.

Currently effective Civil Air Regulations require approval of certain specified appliances by type certification. Such certification entails submission of detailed data for each appliance or variation thereof, which data must be examined and approved by the Administrator of Civil Aeronautics.

The purpose of this amendment is to simplify and expedite approval by permitting, in lieu of type certification, the establishment and publication of specifications by the Administrator for such appliances. The Administrator will publish the specifications in the form of "Technical Standard Orders" which will be established by him after collaboration with the industry and upon consideration of pertinent aviation industry, Federal, and military specifications. An appliance for which a Technical Standard Order has been so established shall be deemed approved by the Administrator when the manufacturer certifies that the appliance meets the specifications included therein, and the appliance does in fact meet the specifications.

As specifications are formulated for individual appliances now requiring type certification, the Board will consider amending the Civil Air Regulations to delete the type certification requirement for the particular appliance.

The Technical Standard Order system of approval may also be used by the Administrator for items such as materials, parts, and processes, as well as for those appliances which now do not require type certification.

The Board finds that this amendment will facilitate the manufacture of aircraft by permitting a simpler procedure for obtaining approval of materials, parts, processes, and appliances without any lowering of safety standards.

Interested persons have been afforded an opportunity to participate in the formulation in this amendment, and due

consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 06 of the Civil Air Regulations (14 CFR, Part 06) effective January 1, 1948.

By adding a new § 06.05 to read as follows:

**§ 06.05 Approval of materials, parts, processes, and appliances.** Materials, parts, processes, and appliances shall be approved upon a basis and in a manner found necessary by the Administrator to implement the pertinent provisions of the Civil Air Regulations. The Administrator may adopt and publish such specifications as he finds necessary to administer this section, and shall incorporate therein such portions of the aviation industry, Federal, and military specifications respecting such materials, parts, processes, and appliances as he finds appropriate.

Any material, part, process, or appliance shall be deemed to have met the requirements for approval when it meets the pertinent specifications adopted by the Administrator, and the manufacturer so certifies in a manner prescribed by the Administrator.

(Secs. 205 (a), 601, 603, 52 Stat. 984, 1007, 1009; 49 U. S. C. 425 (a), 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10399; Filed, Nov. 24, 1947;  
8:49 a. m.]

[Regs., Serial No. 406]

**PART 224—TARIFFS**

**FILING AND POSTING**

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on this 18th day of November 1947.

The purpose of this amendment is to specify the hours when, the channels through which, and the places where tariff publications may be filed with the Board.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Board hereby amends § 224.1 of the Economic Regulations (14 CFR 224.1) as follows, effective December 18, 1947:

**1. By amending § 224.1 (o) (6) thereof to read as follows:**

**§ 224.1 Filing, posting, and publishing of tariffs by air carriers and foreign air carriers.** \* \* \*

(o) **Filing and posting.** \* \* \*

(6) Tariff publications will be received for filing only by delivery thereof to the Board through normal mail channels or by delivery thereof by hand directly to that office of the Board charged with responsibility for maintaining the official file of tariffs, and will be received for filing only during the established business hours of the Board. A tariff publication will be deemed filed only upon actual receipt by the Board in accordance

with such requirements, and any required period of notice will commence to run only from the time of such filing.

**NOTE:** Tariff publications received by the Board but subsequently rejected for filing will not be returned.

(Secs. 205 (a), 403 (a); 52 Stat. 984, 992, 49 U. S. C. 425, 483)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10400; Filed, Nov. 24, 1947;  
8:49 a. m.]

[Regs. Serial No. 407]

**PART 301—ORGANIZATION, DELEGATIONS OF AUTHORITY, AND PUBLIC INFORMATION**

**REJECTION OF TARIFFS**

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on this 18th day of November 1947.

The Board is empowered under section 403 of the Civil Aeronautics Act to reject any tariff filed with it which is inconsistent with such section, or with the regulations of the Board thereunder. Heretofore the Board has itself reviewed and acted upon each tariff publication recommended for rejection by its staff with attendant delays both in the giving of notice of tariff rejections and in the prosecution of other work requiring the Board's attention and decision. The administrative burden on the Board makes it imperative that authority to act be delegated to its staff to the fullest extent possible consistent with the Board's responsibilities under the act. A large majority of tariff rejections are matters readily determinable by the application of established standards and no matters of important policy determination are likely to arise in relation thereto. Accordingly, the purpose of this regulation is to delegate authority to the Director of the Economic Bureau to reject, on behalf of the Board, any tariff publication filed with the Board which is not consistent with section 403 of the act or with the Board's regulations issued thereunder.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant material presented.

In consideration of the foregoing the Board hereby amends § 301.2 of the Organizational Regulations (14 CFR 301.2), as follows, effective November 18, 1947:

**1. By adding thereto a new paragraph (c) reading as follows:**

**§ 301.2 Delegations of authority.** \* \* \*

(c) **Rejection of tariffs.** The Director of the Economic Bureau is authorized to reject, on behalf of the Board, any tariff, supplement, or revised page which is subject to rejection under section 403 (a) of the Civil Aeronautics Act, as amended, because it is not consistent with section 403 of the Civil Aeronautics Act, or § 224.1 of the Economic Regulations as amended from time to time. The Director shall give notice of any

## RULES AND REGULATIONS

such rejection in writing to the carrier or agent filing such tariff, which notice shall clearly state the reason or reasons for the rejection. When time will not permit receipt of such notice by mail prior to the proposed effective date of the tariff publication so rejected, telegraphic notice shall also be given.

(Secs. 205 (a), 403 (a), 52 Stat. 984, 982; 49 U. S. C. 425, 483)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10401; Filed, Nov. 24, 1947;  
8:49 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. 5048]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

UNITY STAMP CO., INC.

**§ 3.45 (c) Discriminating in price—Direct discrimination—Charges and prices.** In connection with the sale of rubber stamps in commerce, (1) discriminating, directly or indirectly, in the price of rubber stamps of comparable size and like grade and quality by selling such rubber stamps to any purchaser at a price or prices materially different from those at which sales are made to any other purchaser; or, (2) otherwise discriminating in price, either directly or indirectly, among different purchasers of rubber stamps of like grade and quality in any manner prohibited by section 2 (a) of the Clayton Act as amended; prohibited, subject to the provision, however, that said first prohibition shall not be construed as prohibiting differentials permitted by section 2 of said act as amended. (Sec. 2 (a), 49 Stat. 1526; 15 U. S. C., sec. 13 (a)) [Cease and desist order, Unity Stamp Company, Inc., Docket 5048, Oct. 23, 1947]

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 23d day of October A. D. 1947.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admitted all of the material allegations of fact in the complaint but denied that the facts alleged constituted a violation of the statute in question, and upon briefs in support of and in opposition to the complaint and oral argument, and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of subsection (a) of section 2 of the act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (15 U. S. C. Sec. 13):

*It is ordered*, That the respondent, Unity Stamp Company, Inc., a corporation, and its officers, agents, representa-

tives and employees, directly or through any corporate or other device, in connection with the sale of rubber stamps in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

1. Discriminating, directly or indirectly, in the price of rubber stamps of comparable size and like grade and quality by selling such rubber stamps to any purchaser at a price or prices materially different from those at which sales are made to any other purchaser: *Provided, however,* That this prohibition shall not be construed as prohibiting differentials permitted by section 2 of the Clayton Act as amended.

2. Otherwise discriminating in price, either directly or indirectly, among different purchasers of rubber stamps of like grade and quality in any manner prohibited by section 2 (a) of the Clayton Act as amended.

*It is further ordered*, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 47-10355; Filed, Nov. 24, 1947;  
8:57 a. m.]

## TITLE 20—EMPLOYEES' BENEFITS

### Chapter III—Social Security Administration (Old-Age and Survivors Insurance), Federal Security Agency

#### PART 422—STATEMENTS OF PROCEDURE

##### BUREAU OF OLD-AGE AND SURVIVORS INSURANCE

The Statements of Procedure of the Bureau of Old-Age and Survivors Insurance and the Office of the Appeals Council (20 CFR, 1946 Sup., 422.1 et seq.) are amended as follows:

1. Section 422.1 (b) is amended by adding at the end, a new subparagraph (4) reading as follows:

**§ 422.1 Procedures of the Bureau of Old-Age and Survivors Insurance. \* \* \***  
**(b) Wage records. \* \* \***

**(4) Compensation credited under the Railroad Retirement Act combined with wages received for employment covered by the Social Security Act in certain cases.** Compensation credited under the Railroad Retirement Act is combined with wages received for employment covered by the Social Security Act for the purpose of determining monthly insurance benefits under Title II of the Social Security Act and monthly annuities under the Railroad Retirement Act which begin to accrue on or after January 1, 1947, to the survivors of a deceased worker and in making lump-sum death payments where death occurs on or after January 1, 1947. Procedure has been established whereby the Bureau and the Railroad Retirement Board exchange information regarding wages and compensation.

2. Section 422.1 (c) is amended to read as follows:

(c) *Claims procedure.* The field offices provide local facilities for the public to file claims and to obtain assistance in perfecting them. To become entitled to any benefit or payment or to a recomputation of benefits, the appropriate application form, which can be obtained from any field office, must be filed with a Bureau office. (See 20 CFR, Cum. Supp., 403.701.) The application forms and corresponding forms containing instructions as to their execution are as follows:

1. Form OA-C1, Application for Wage Earner's Primary Insurance Benefits.

Form Inst. OA-C1, Instructions to Applicant for Primary Insurance Benefits.

2. Form OA-C1.1, Application for Recomputation of Primary Insurance Benefits.

3. Form OA-C2, Application for Wife's Insurance Benefits.

Form Inst. OA-C2, Instructions to Applicant for Wife's Insurance Benefits.

4. Form OA-C3, Husband's Certification (this form is a part of the wife's application, Form OA-C2, above).

5. Form OA-C4, Application for Insurance Benefits for Child of Living Wage Earner.

Form Inst. OA-C4, Instructions to Applicant for Insurance Benefits for Child of Living Wage Earner.

6. Form OA-C5, Application of Widow, and Widow on Behalf of Child, for Survivors Insurance Benefits.

Form Inst. OA-C5.1, Instructions to Applicant for Widow's Current Insurance Benefits.

Form Inst. OA-C5.2, Instructions to Applicant for Widow's Insurance Benefits.

Form Inst. OA-C5.3, Instructions Covering Application for Insurance Benefits by Widow on Behalf of Children.

7. Form OA-C6, Application on Behalf of Child for Survivors Insurance Benefits.

Form Inst. OA-C6, Instructions to Applicant for Insurance Benefits for Child of Deceased Wage Earner.

8. Form OA-C7, Application of Dependent Parent for Survivors Insurance Benefits.

Form Inst. OA-C7, Instructions to Dependent Parent.

9. Form OA-C8, Application for Lump-Sum Death Payment.

Form Inst. OA-C8, Instructions to Applicant for Lump-Sum Death Payment.

10. Form OA-C10, Application for Widow's Insurance Benefits (for use of widow who has previously filed an application for wife's insurance benefits, widow's current insurance benefits, or a lump-sum death payment with respect to her deceased husband's wages).

Form Inst. OA-C5.2, Instructions to Applicant for Widow's Insurance Benefits.

11. Form OA-C11, Application for Substitution of Payee (for use when substitute payee files application to receive insurance benefits on behalf of self, minor child, or incompetent beneficiary).

In addition to filing the appropriate application form, the claimant must establish by satisfactory evidence the material allegations in his application, except as to wages shown in the Bureau's records. (See 20 CFR, Cum. Supp., 403.702 and 403.703.) Claims application forms, instructions, report forms, and forms for the various proofs necessary to support the claims are available to the public in field offices, itinerant stations, and detached official stations. These offices assist claimants in preparing their applications and in obtaining the proofs required to support their claims. Claims adjudicated in the field

offices are subject to review in one of the six area offices of the Bureau. Applications and supporting proofs filed with the Railroad Retirement Board shall be deemed filed with the Bureau as of the date such forms were filed with the Railroad Retirement Board where compensation credited under the Railroad Retirement Act is considered in determining entitlement and the amount of benefits payable under the Social Security Act. The area office notifies claimants of the action taken on their claims, informing them at the same time of their right to a reconsideration, hearing, or appeal.

Legislation enacted in 1946 extends protection of the survivors provisions of the Social Security Act in certain instances to survivors of servicemen who served in World War II and who died within three years after a discharge occurring prior to July 27, 1951. Benefits under this legislation are also paid upon application filed in field offices.

Recipients of monthly benefits are variously obligated to report to the Bureau the occurrence of events, which suspend or terminate benefits. Post cards, Forms OA-C611a and OA-C612a, for reporting these events are given the claimant at the time he files application for benefits. Additional ones may be obtained from any field office.

3. Appendix A, following § 422.7, is amended to read as follows:

#### APPENDIX A—FIELD OFFICES

Alabama: Anniston, Birmingham, Decatur, Dothan, Gadsden, Mobile, Montgomery, Tuscaloosa.

Arizona: Phoenix, Prescott, Tucson.

Arkansas: El Dorado, Fort Smith, Hot Springs, Jonesboro, Little Rock, Pine Bluff, Texarkana.

California: Bakersfield, Eureka, Fresno, Glendale, Hollywood, Huntington Park, Inglewood, Long Beach, Los Angeles, Oakland, Pasadena, Redding, Sacramento, San Bernardino, San Diego, San Francisco, San Jose, San Mateo, Santa Barbara, Santa Monica, Santa Rosa, Stockton.

Colorado: Colorado Springs, Denver, Grand Junction, Greeley, Pueblo, Trinidad.

Connecticut: Bridgeport, Hartford, Meriden, New Britain, New Haven, New London, Stamford, Torrington, Waterbury.

Delaware: Wilmington.

District of Columbia: Washington, D. C.

Florida: Gainesville, Jacksonville, Miami, Orlando, Pensacola, St. Petersburg, Tallahassee, Tampa, West Palm Beach.

Georgia: Albany, Athens, Atlanta, Augusta, Columbus, La Grange, Macon, Rome, Savannah, Waycross.

Idaho: Boise, Lewiston, Pocatello, Twin Falls.

Illinois: Aurora, Bloomington, Champaign, Chicago (173 West Madison Street; Viceroy Building, 1045 Lawrence Avenue; 703 West Sixty-sixth Street; Paradise Theatre Building, 225 North Pulaski Road; 417 East Forty-seventh Street; 1601 North Milwaukee Avenue; 1610 West Van Buren Street), Cicero, Danville, Decatur, East St. Louis, Evanston, Harrisburg, Harvey, Joliet, Mount Vernon, Oak Park, Peoria, Quincy, Rockford, Rock Island, Springfield, Waukegan.

Indiana: Anderson, Bloomington, Elkhart, Evansville, Fort Wayne, Gary, Hammond, Indianapolis, Kokomo, La Fayette, Muncie, New Albany, Richmond, South Bend, Terre Haute.

Iowa: Cedar Rapids, Davenport, Des Moines, Dubuque, Fort Dodge, Mason City, Ottumwa, Sioux City, Waterloo.

Kansas: Dodge City, Hutchinson, Independence, Kansas City, Pittsburg, Topeka, Salina, Wichita.

Kentucky: Ashland, Bowling Green, Corbin, Covington, Frankfort, Hazard, Lexington, Louisville, Owensboro, Paducah.

Louisiana: Alexandria, Baton Rouge, Lake Charles, Monroe, New Orleans, Shreveport.

Maine: Augusta, Bangor, Lewiston, Portland.

Maryland: Baltimore, Cumberland, Hagerstown, Salisbury.

Massachusetts: Attleboro, Boston (120 Boylston Street; 84 State Street), Brockton, Cambridge, Chelsea, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, Lynn, Malden, New Bedford, Pittsfield, Quincy, Salem, Springfield, Waltham, Worcester.

Michigan: Battle Creek, Bay City, Dearborn, Detroit (Mortgage and Bond Building, 5 West Larned Street; 16400 Woodward Avenue; 8720 Mack Avenue), Escanaba, Flint, Grand Rapids, Jackson, Kalamazoo, Lansing, Marquette, Muskegon, Pontiac, Port Huron, Saginaw, Traverse City.

Minnesota: Albert Lea, Bemidji, Duluth, Minneapolis, Redwood Falls, St. Cloud, St. Paul, Winona.

Mississippi: Columbus, Greenwood, Gulfport, Hattiesburg, Jackson, Meridian, Vicksburg.

Missouri: Cape Girardeau, Clayton, Hannibal, Jefferson City, Joplin, Kansas City, St. Joseph, St. Louis (300 Old Post Office Building, Eighth and Olive Streets; 3602 Gravois Avenue), Sedalia, Springfield.

Montana: Billings, Butte, Great Falls, Helena, Missoula.

Nebraska: Grand Island, Lincoln, North Platte, Omaha, Scottsbluff.

Nevada: Las Vegas, Reno.

New Hampshire: Concord, Littleton, Manchester, Nashua, Portsmouth.

New Jersey: Atlantic City, Bridgeton, Camden, Elizabeth, Jersey City, Newark, Passaic, Paterson, Perth Amboy, Trenton.

New Mexico: Albuquerque, Roswell.

New York: Albany, Auburn, Binghamton, Brooklyn (271 Washington Street, Room 745; 1243 Bedford Avenue; 258 Broadway; Loew's Coney Island Theatre Building, 1301 Surf Avenue), Buffalo, Elmira, Glens Falls, Gloversville, Jamaica, Jamestown, Kingston, Long Island City, Newburgh, New Rochelle, New York City (Terminal Building, 215 East One Hundred and Forty-ninth Street; 318 East Kingsbridge Road; 42 Broadway, Room 200; Room 232, Salmon Tower Building, 11 West Forty-second Street; 209 West One Hundred and Twenty-fifth Street; 334 Audubon Avenue), Niagara Falls, Ogdensburg, Oswego, Patchogue, Plattsburgh, Poughkeepsie, Rochester, Schenectady, Staten Island, Syracuse, Troy, Utica, Watertown, Yonkers.

North Carolina: Asheville, Charlotte, Durham, Fayetteville, Gastonia, Greensboro, Hickory, High Point, Raleigh, Rocky Mount, Salisbury, Wilmington, Winston-Salem.

North Dakota: Bismarck, Fargo, Grand Forks, Minot.

Ohio: Akron, Ashtabula, Canton, Cincinnati, Cleveland (Marshall Building, 11 Public Square; 10609 Superior Avenue; 1400 West Sixty-fifth Street), Columbus, Dayton, Hamilton, Lima, Lorain, Mansfield, Marion, Portsmouth, Springfield, Steubenville, Toledo, Warren, Youngstown, Zanesville.

Oklahoma: Ardmore, Enid, Lawton, McAlester, Muskogee, Oklahoma City, Tulsa.

Oregon: Eugene, Klamath Falls, La Grande, Portland, Salem.

Pennsylvania: Allentown, Altoona, Ambridge, Braddock, Chester, Du Bois, Easton, Erie, Greensburg, Harrisburg, Hazelton, Johnstown, Lancaster, McKeesport, New Castle, New Kensington, Norristown, Oil City, Philadelphia (901 United States Customhouse; 18 West Cheilton Avenue; 3207 Kensington Avenue), Pittsburgh, Pottsville, Read-

ing, Scranton, Uniontown, Wilkes-Barre, Williamsport, York.

Rhode Island: Pawtucket, Providence, Woonsocket.

South Carolina: Charleston, Columbia, Florence, Greenville, Greenwood, Rock Hill, Spartanburg.

South Dakota: Aberdeen, Huron, Rapid City, Sioux Falls.

Tennessee: Chattanooga, Columbia, Dyersburg, Jackson, Johnson City, Knoxville, Memphis, Nashville.

Texas: Abilene, Amarillo, Austin, Beaumont, Brownsville, Corpus Christi, Dallas, El Paso, Fort Worth, Galveston, Houston, Lubbock, Lufkin, Paris, Port Arthur, San Angelo, San Antonio, Tyler, Waco, Wichita Falls.

Utah: Ogden, Provo, Salt Lake City.

Vermont: Burlington, Montpelier, Rutland.

Virginia: Alexandria, Bristol, Danville, Lynchburg, Newport News, Norfolk, Petersburg, Richmond, Roanoke, Staunton, Winchester.

Washington: Aberdeen, Bellingham, Olympia, Seattle, Spokane, Tacoma, Yakima.

West Virginia: Beckley, Bluefield, Charleston, Clarksburg, Huntington, Logan, Morgantown, Parkersburg, Wheeling.

Wisconsin: Eau Claire, Fond du Lac, Green Bay, Janesville, Kenosha, La Crosse, Madison, Milwaukee, Oshkosh, Racine, Sheboygan, Superior, Wausau.

Wyoming: Casper, Cheyenne, Rock Springs.

Alaska: Juneau.

Hawaii: Honolulu.

(Sec. 3, 60 Stat. 238; 5 U. S. C. Sup. 1002)

The foregoing amendments are hereby made this 18th day of November, 1947.

[SEAL]

W. L. MITCHELL,  
Acting Commissioner  
for Social Security.

Approved: November 19, 1947.

OSCAR R. EWING,  
Federal Security Administrator.

[F. R. Doc. 47-10375; Filed, Nov. 24, 1947;  
8:55 a. m.]

## TITLE 22—FOREIGN RELATIONS

### Chapter I—Department of State

[Departmental Reg. 108.55]

#### PART 99—RELIEF ASSISTANCE TO WAR-DEVASTATED COUNTRIES

##### AUTHORIZATION FOR OCEAN TRANSPORTATION

OCTOBER 18, 1947.

Pursuant to the authority contained in R. S. 161 (5 U. S. C. 22), and in conformity with Executive Order 9864 of May 31, 1947 (12 F. R. 3559), Title 22, Part 99, § 99.1, paragraph (e), is hereby amended to read as follows:

##### § 99.1 Authorization for ocean transportation. \*

(e) The charges claimed for reimbursement are for actual transportation of the supplies from shipside at port of loading to end of ship's tackle at port of discharge as correctly assessed by the carrier for freight on a weight measurement, or unit basis, and free of any other charges except surcharges for such transportation as may be currently in effect; *Provided*, That when other funds or services are not available, claims may be made for necessary expenses incurred at port of shipment for transfer, repacking, stevedoring, and other handling costs, by American voluntary and non-profit

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relief agencies specifically authorized to incur such charges.

(R. S. 161; 5 U. S. C. 22)

This regulation shall become effective immediately upon publication in the FEDERAL REGISTER.

Approved: October 18, 1947.

For the Secretary of State,

JOHN E. PEURIFOY,  
Assistant Secretary of State.

[F. R. Doc. 47-10373; Filed, Nov. 24, 1947;  
8:58 a. m.]

## TITLE 29—LABOR

## Chapter II—National Labor Relations Board

## PART 204—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

## STATEMENT OF POLICY WITH RESPECT TO PUERTO RICO LABOR RELATIONS BOARD

Pursuant to the provisions of section 3 (a) (3) of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess.), the National Labor Relations Board hereby separately states and currently publishes in the FEDERAL REGISTER the following statement of general policy or interpretation formulated and adopted by the agency for the guidance of the public.

*S 204.2 Statement of policy with respect to Puerto Rico Labor Relations Board.* The National Labor Relations Board and the Puerto Rico Labor Relations Board have agreed on the following statement of policy as follows:

(a) Under date of August 10, 1945, the National Labor Relations Board and the Puerto Rico Labor Relations Board agreed that the Puerto Rico Labor Relations Board would act as agent of the National Labor Relations Board for the enforcement in Puerto Rico of the National Labor Relations Act. Because it worked so successfully, this agreement was later extended indefinitely, subject to termination at the will of either party to the agreement.

(b) The recent passage of the Taft-Hartley Act, amending the National Labor Relations Act, has given rise to serious administrative and procedural problems which make the continuation of the agency agreement unfeasible from the viewpoint of both the National Labor Relations Board and the Puerto Rico Labor Relations Board. With full appreciation of the mutual benefits that have obtained under the agreement, but recognizing, in the light of the changed conditions introduced by the Labor Management Relations Act, 1947 (the Taft-Hartley Act), the impracticability of continuing the agency agreement, both parties have elected to terminate the agreement effective October 24, 1947.

(c) In terminating the present agency agreement between the National Labor Relations Board and the Puerto Rico Labor Relations Board, the plenary power of the Congress of the United States over labor disputes and matters affecting representation arising in the Territory of Puerto Rico is recognized. It is also recognized that in the Labor

Management Relations Act, 1947 (the Taft-Hartley Act), it was the apparent intent of Congress that State and Territorial agencies designed for the purpose of disposing of matters concerning representation and labor disputes be encouraged to continue in their assigned functions over matters purely local in character.

(d) In the interest of avoiding any interruption to the orderly disposal of labor problems arising in Puerto Rico, the Puerto Rico Labor Relations Board and the National Labor Relations Board have entered into negotiations looking to general agreement concerning the disposition of cases now pending and those which may arise in the future.

(e) For the present, under the administrative discretion vested in the National Labor Relations Board and General Counsel, it is the opinion of the Board and General Counsel that the full exercise of plenary jurisdiction over all matters concerning representation and labor disputes in the Territory of Puerto Rico, especially those involving enterprises purely local in their operation, is not administratively feasible or desirable. These enterprises are typified by the following examples:

Dairy farms.  
Local trucking unconnected with manufacturing.  
Municipal bus lines and taxi fleets.  
Clinicas (small privately owned hospitals).  
Gasoline stations, repair service stations and garages.  
Retail stores, excepting large department stores and chain stores.  
Service trades (laundries, barber shops, beauty parlors, etc.).  
Restaurants, night clubs, hotels.  
Retail newspaper distribution.  
Theaters.

(f) It is appropriate therefore for the Puerto Rico Labor Relations Board to proceed on the basis of this statement concerning all cases arising in the enterprises listed above or others of similar character until the assertion of jurisdiction by the National Labor Relations Board or the General Counsel, or until this statement is modified.

(g) In doubtful instances not clearly included in this statement the Puerto Rico Labor Relations Board will seek specific opinion from the General Counsel before entertaining any proceeding under the Puerto Rico Labor Relations Act.

(Sec. 4 (a), Pub. Law 101, 80th Cong., 1st Sess.)

Approved:

[SEAL] R. N. DENHAM,  
General Counsel,  
National Labor Relations Board.

OCTOBER 15, 1947.

PAUL HERZOG,  
Chairman,  
National Labor Relations Board.

OCTOBER 15, 1947.

FREDERICO BARELA,  
Chairman,  
Puerto Rico Labor Relations Board.

OCTOBER 24, 1947.

[F. R. Doc. 47-10356; Filed, Nov. 24, 1947;  
8:49 a. m.]

## TITLE 32—NATIONAL DEFENSE

## Chapter VIII—Office of International Trade, Department of Commerce

## Subchapter B—Export Control

## PART 800—ORDERS AND DELEGATIONS OF AUTHORITY

## MODIFICATION OF VALIDITY OF CERTAIN EXPORT LICENSES

*It is hereby ordered.* That, the periods of validity of all outstanding valid Consolidated Licenses for the exportation of iron and steel products are modified as follows:

(1) Licenses validated prior to February 1, 1947 shall expire not later than November 30, 1947;

(2) Licenses validated during the month of February 1947 shall expire not later than December 31, 1947; and

(3) Licenses validated on and after March 1, 1947 shall expire not later than February 28, 1948.

*Provided.* That this order shall not operate to extend the validity period presently provided in any consolidated license, nor to reduce the validity period of any consolidated license which has been heretofore extended by the Department of Commerce.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215; Pub. Law 145, 80th Cong.; Pub. Law 188, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245)

Dated: November 20, 1947.

FRANCIS MCINTYRE,  
Director,  
Export Supply Branch.

[F. R. Doc. 47-10379; Filed, Nov. 24, 1947;  
8:58 a. m.]

## PART 800—ORDERS AND DELEGATIONS OF AUTHORITY

## EXPORTATIONS OF SUGAR AND SUGAR-CONTAINING PRODUCTS

The Sugar Control Extension Act of 1947, Public Law 30, 80th Cong., transferred to the Secretary of Agriculture authority over the administration of export control of sugar, as defined in said act, including the commodities listed below. This authority of the Secretary of Agriculture expired on midnight, October 31, 1947 and control over exportation of sugar reverted to the Department of Commerce.

*Accordingly, it is hereby ordered.* That effective November 1, 1947 the commodities listed below (1) may be exported under general license, as set forth in § 802.7 of this subchapter, to all destinations in country Group K; and (2) shall require a validated license for exportation to all destinations in country Group E if the shipment exceeds the net value of twenty-five dollars, as set forth in § 802.10 and § 804.1 of this subchapter.

## Schedule B No. and Commodity

161910 Sugar, refined.

161950 Sugar, raw.

162900 Molasses (including blackstrap syrup).

163500 Candy, other than chocolate, containing 70% or more sugar.  
 163700 Confections and desserts N. E. S., containing 70% or more sugar.  
 164300 Glucose, liquid.  
 164400 Glucose, dry.  
 164700 Sirups, including glypto syrup.  
 (Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215; Pub. Law 145, 80th Cong.; Pub. Law 188, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245)

Dated: November 18, 1947.

FRANCIS MCINTYRE,  
 Director,  
 Export Supply Branch.

[F. R. Doc. 47-10378; Filed, Nov. 24, 1947;  
 8:58 a. m.]

[Amendt. 369]

#### PART 801—GENERAL REGULATIONS

##### PROHIBITED EXPORTATIONS

Section 801.2 *Prohibited exportations* is amended as follows:

The list of commodities set forth in paragraph (b) is amended in the following particulars:

The dollar value limits in the column headed "GLV Dollar Value Limits" set forth opposite the commodity listed below are amended to read as follows:

Dept. of Comm. Sched. B No. and Commodity	Country Group K      E		GLV Dollar value limits
	Woven-wire screen, cloth, of all metals and alloys:	Insect	
608610	5	None	

This amendment shall become effective immediately.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215; Pub. Law 145, 80th Cong.; Pub. Law 188, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245)

Dated: November 6, 1947.

FRANCIS MCINTYRE,  
 Director,  
 Export Supply Branch.

[F. R. Doc. 47-10380; Filed, Nov. 24, 1947;  
 8:58 a. m.]

#### TITLE 39—POSTAL SERVICE

##### Chapter I—Post Office Department

#### PART 21—INTERNATIONAL POSTAL SERVICE SERVICE TO FOREIGN COUNTRIES; MAIL FOR TERRITORIES FORMERLY UNDER ITALIAN ADMINISTRATION

According to information received from the Department of State, under the terms of the Italian Peace Treaty, Fiume and Zara have been ceded to Yugoslavia as have also the Islands of Cherso, Lussino, Unie, Sansego and Asinello in the Adriatic Sea. The villages of Tenda and Briga, formerly located along the Western border of Italy, have been placed under French administration, while the Dodecanese Islands have been ceded to Greece. The official title of Trieste is now "The Free Territory of Trieste."

Consequently, mails for the places named should show the name of the country of destination as follows:

Mail for:	Country of destination
Fiume	
Zara	
Cherso	
Lussino	Yugoslavia.
Unie	
Sansego	
Asinello	
Briga	France.
Tenda	
Dodecanese Islands	Greece.
Trieste	Free Territory of Trieste.

[SEAL] ROBERT E. HANNEGAN,  
 Postmaster General.

[F. R. Doc. 47-10351; Filed, Nov. 24, 1947;  
 8:57 a. m.]

#### SOMALIA (RATES INCLUDE TRANSIT CHARGES)

Pounds	Rate	Pounds	Rate
1	\$0.37	12	\$2.40
2	.51	13	2.54
3	.80	14	2.68
4	.94	15	2.82
5	1.08	16	2.96
6	1.22	17	3.10
7	1.36	18	3.24
8	1.61	19	3.38
9	1.75	20	3.52
10	1.89	21	3.66
11	2.03	22	3.80

Parcel post rates to British Somaliland, Ethiopia and French Somaliland have been reduced. The new rates applicable to parcels addressed to those countries are shown in the following tables:

#### BRITISH SOMALILAND (RATES INCLUDE TRANSIT CHARGES)

Pounds	Rate	Pounds	Rate
1	\$0.37	12	\$2.82
2	.51	13	2.96
3	.95	14	3.10
4	1.09	15	3.24
5	1.23	16	3.38
6	1.37	17	3.52
7	1.51	18	3.66
8	1.94	19	3.80
9	2.03	20	3.94
10	2.22	21	4.08
11	2.36	22	4.22

#### ETHIOPIA (RATES INCLUDE TRANSIT CHARGES)

Pounds	Rate	Pounds	Rate
1	\$0.29	12	\$2.17
2	.43	13	2.31
3	.64	14	2.45
4	.78	15	2.59
5	.92	16	2.73
6	1.06	17	2.87
7	1.20	18	3.01
8	1.38	19	3.15
9	1.52	20	3.29
10	1.66	21	3.43
11	1.80	22	3.57

#### FRENCH SOMALILAND (RATES INCLUDE TRANSIT CHARGES)

Pounds	Rate	Pounds	Rate
1	\$0.27	12	\$2.04
2	.41	13	2.18
3	.63	14	2.32
4	.77	15	2.46
5	.91	16	2.60
6	1.05	17	2.74
7	1.19	18	2.88
8	1.32	19	3.02
9	1.46	20	3.16
10	1.60	21	3.30
11	1.74	22	3.44

(R. S. 396, 398, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 369, 372)

[SEAL] ROBERT E. HANNEGAN,  
 Postmaster General.

[F. R. Doc. 47-10354; Filed, Nov. 24, 1947;  
 8:57 a. m.]

#### PART 21—INTERNATIONAL POSTAL SERVICE

##### SERVICE TO FOREIGN COUNTRIES; INCREASED WEIGHT LIMIT FOR PARCEL POST PACKAGES ADDRESSED TO CYRENAICA, SOMALIA, BRITISH SOMALILAND, ETHIOPIA, FRENCH SOMALILAND

Effective November 20, 1947, ordinary (unregistered and uninsured) parcel post service will be resumed to Somalia (formerly Italian Somaliland) and Cyrenaica. No c. o. d. service will be available. The weight limit will be 22 pounds. Packages may not exceed the following dimensions:

Greatest combined length and girth, 6 feet. Greatest length, 3½ feet, except that parcels may measure up to 4 feet in length, on condition that parcels over 42 and not over 44 inches in length do not exceed 24 inches in girth, parcels over 44 and not over 46 inches in length do not exceed 20 inches in girth, and parcels over 46 inches and up to 4 feet in length do not exceed 16 inches in girth.

The following rates of postage will apply:

##### CYRENAICA (RATES INCLUDE TRANSIT CHARGES)

Pounds	Rate	Pounds	Rate
1	\$0.37	12	\$2.63
2	.51	13	2.77
3	.80	14	2.91
4	.94	15	3.05
5	1.08	16	3.19
6	1.22	17	3.33
7	1.36	18	3.47
8	1.63	19	3.61
9	1.77	20	3.75
10	1.91	21	3.89
11	2.05	22	4.03

##### SERVICE TO FOREIGN COUNTRIES; INCREASED WEIGHT LIMIT FOR GIFT PARCELS ADDRESSED TO ITALY AND VATICAN CITY STATE

Effective November 20, 1947, the weight limit of gift parcels addressed for delivery in Italy and Vatican City State will be increased from 11 to 22 pounds. At the same time, the limitation of only one parcel per week from the same sender to the same addressee will be removed.

## RULES AND REGULATIONS

The parcel post rates are 14 cents per pound or fraction of a pound.  
(R. S. 396, 398, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 369, 372)

[SEAL] ROBERT E. HANNEGAN,  
Postmaster General.  
[F. R. Doc. 47-10352; Filed, Nov. 24, 1947;  
8:57 a. m.]

**TITLE 49—TRANSPORTATION  
AND RAILROADS****Chapter I—Interstate Commerce  
Commission****PART 22—CARRIERS BY WATER: UNIFORM  
SYSTEM OF ACCOUNTS****CANCELLATION OF ACCOUNTING BULLETIN**

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 14th day of November A. D. 1947.

The matter of a uniform system of accounts for carriers by water being under consideration by the division pur-

suant to section 313 (c) of the Interstate Commerce Act, as amended; and

It appearing, that Accounting Bulletin No. 12, consisting of official interpretations of the accounting regulations then in effect, was approved by order dated January 19, 1917; and,

It further appearing, that accounting regulations for carriers by water, as published in the Code of Federal Regulations in this chapter and part, and as interpreted in said Accounting Bulletin No. 12, were canceled by order dated November 7, 1946 (11 F. R. 14522);

*It is ordered*, That Accounting Bulletin No. 12 be, and it is hereby, canceled and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 47-10366; Filed, Nov. 24, 1947;  
8:54 a. m.]

Upon the basis of the evidence introduced at the aforesaid hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on October 3, 1947, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the **FEDERAL REGISTER** (12 F. R. 6620, 6749).

*Material issues.* The material issues presented on the record of the hearing were concerned with the following:

(1) Amending the marketing agreement and order to provide for the regulation of the handling of lemons which directly burdens, obstructs, or affects the handling of lemons in interstate commerce or commerce with Canada;

(2) Amending the marketing agreement and order to limit or prohibit the handling of lemons of particular grades or sizes, or of both particular grades and sizes, during a specified period of regulation;

(3) Amending the marketing agreement and order to provide for inspection for grade and size by inspectors of the Federal-State Inspection Service if provisions for grade and size regulations are adopted;

(4) Amending the marketing agreement and order to define the term "first handler";

(5) Establishing District 1 as defined in the aforesaid notice of hearing (12 F. R. 4516) and District 2 likewise defined in the hearing notice;

(6) Amending the marketing agreement and order to provide for the issuance of regulations for lemons grown in District 2 different from the regulations issued for lemons grown in District 1; and

(7) Amending the marketing agreement and order to delete the provisions regulating the handling of lemons grown in the State of Arizona.

*Findings and conclusions.* The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, and which are substantially the same as the findings and conclusions which were set forth in connection with the respective issues in the aforementioned recommended decision, are as follows:

(1) The marketing agreement and order should be amended to provide for the regulation of the handling of lemons which directly burdens, obstructs, or affects the handling of lemons in interstate commerce or commerce with Canada.

The production of lemons in California and Arizona constitutes practically the entire supply of lemons produced in the United States. Any change in the quantity of fresh lemons marketed within the States of California and Arizona affects the quantity of fresh lemons available for market in all the other states. Although individual fresh lemon markets within the States of California and Arizona vary as to size, they constitute integral parts of the larger market

**TREASURY DEPARTMENT****Bureau of Customs**  
**[19 CFR, Part 61]**

[192-38.31]

FORD AIRPORT, DETROIT, MICH.

**NOTICE OF PROPOSED REVOCATION OF  
DESIGNATION AS AIRPORT OF ENTRY**

Notice is hereby given that, pursuant to authority contained in section 7 (b) of the Air Commerce Act of 1926, as amended (49 U. S. C., Sup., 177 (b)), it is proposed to revoke the designation of the Ford Airport, Detroit, Michigan, as an airport of entry for civil aircraft and for merchandise carried thereon arriving from places outside the United States; and it is further proposed to amend the list of airports of entry in § 6.12, Customs Regulations of 1943 (19 CFR, Cum. Supp., 6.12) as amended, by deleting the location and name of said airport of entry.

This notice is published pursuant to section 4 of the Administrative Procedure Act (Public Law 404, 79th Congress). Data, views, or arguments with respect to the proposed revocation of the designation of the above-mentioned airport as an airport of entry may be addressed to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., in writing. To assure consideration of such communications, they must be received in the Bureau of Customs not later than 20 days from the date of publication of this notice in the **FEDERAL REGISTER**.

[SEAL] JOHN W. SNYDER,  
Secretary of the Treasury.

NOVEMBER 17, 1947.

[F. R. Doc. 47-10378; Filed, Nov. 24, 1947;  
8:56 a. m.]

**DEPARTMENT OF AGRICULTURE****Production and Marketing  
Administration**  
**[7 CFR, Part 953]****HANDLING OF LEMONS GROWN IN  
CALIFORNIA AND ARIZONA****DECISION WITH RESPECT TO PROPOSED  
AMENDMENTS TO MARKETING AGREEMENT  
AND ORDER**

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act", and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR and Supps., 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159), a public hearing was held at Los Angeles, California, on December 3, 1946, pursuant to notice thereof which was published in the **FEDERAL REGISTER** (11 F. R. 13219) upon proposed amendments to Marketing Agreement No. 94, herein-after referred to as the "marketing agreement", and Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.), herein-after referred to as the "order", regulating the handling of lemons grown in the States of California and Arizona. This hearing was reopened upon the request of the California Fruit Growers Exchange, Los Angeles, California, at Phoenix, Arizona, on August 4, 1947, and at Los Angeles, California, on August 7, 1947, pursuant to notice thereof which was published in the **FEDERAL REGISTER** (12 F. R. 4516). An amendment to the notice of hearing was likewise published in the **FEDERAL REGISTER** (12 F. R. 4823).

for such fruit, which consists of all markets in the United States. Fluctuations in any of the markets in the United States will ultimately result in fluctuations in other markets, depending upon relative market locations and the quantities and prices of fresh lemons over wide areas.

It is the policy of the aforesaid act to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish parity prices to producers. Unregulated sales of lemons within the States of California and Arizona affect the price structure of lemons sold in interstate commerce and counteract the benefits obtained from the present marketing agreement and order. Regulation of the handling of lemons which directly burdens, obstructs, or affects the handling of lemons in interstate commerce would bring about more orderly marketing conditions in all United States markets. A greater supply of a crop, such as lemons, can be marketed during a given season with a well regulated flow of the commodity to the distribution centers than under unrestricted handling, and the regulation of the handling of lemons within California and Arizona would result in a better price to producers. Under such regulation, distributors in the States of California and Arizona would be free from the fear of market gluts; they would buy with assurance of a normal profit and consequently keep the fruit on display in their stores; and they would be willing to operate on a smaller margin. Such regulation would aid in alleviating the burden now placed on interstate commerce by the unregulated handling of lemons marketed within the States of California and Arizona.

During certain seasons of the year, the California and Arizona markets are used as a dumping ground for lemons. Approximately 10 percent of the lemons marketed in fresh form are marketed in California and Arizona, but only approximately 8 percent of the total population of the United States reside in these two states. The price received for lemons sold within these states is so low during these seasons that growers receive little or no return for their fruit. This creates confusion and lack of confidence in the interstate markets. Also, growers must receive larger returns for the fruit which is marketed in interstate commerce as a result of such low prices in order to establish the level of prices which it is the declared policy of the aforesaid act to establish. This directly burdens, obstructs, and affects interstate commerce and commerce with Canada in lemons.

(2) The marketing agreement and order should not be amended to provide for the regulation of handling of lemons by grade and size.

At the hearing, proponents submitted the following modification of proposed amendment No. 7 as published (11 F. R. 13219) in the aforesaid notice of hearing:

Add to section 4 of the marketing agreement and to § 953.4 of the order the following new paragraph:

(n) *Issuance of grade and size regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the Committee, or from other available information, that to limit or prohibit the shipment of lemons of particular grades or sizes, or of both particular grades and sizes, would tend to effectuate the declared policy of the act, he shall so limit or prohibit the shipment of lemons during a specified period: *Provided*, That there shall be no limitation or prohibition of the shipment of size 432 or of larger sizes, as defined in the Agricultural Code of the State of California, which are of U. S. No. 2 or higher grade. The Committee shall be informed immediately of any such regulations issued by the Secretary, and the said Committee shall promptly give adequate notice thereof to handlers.

There were no complete data or persuasive evidence presented at the hearing to show the consistency of the lemon crop as to quality. Data showing the grade and size composition of the entire lemon crop were not inserted in the hearing record. There were scant evidence and supporting data to show the effect or result of grade and size regulation. It was indicated, however, that the limited grade and size regulations issued under the proposed amendment would provide for very little, if any, regulation of the handling of lemons inasmuch as many handlers now limit shipments of fresh lemons to size 432 and larger sizes and to U. S. No. 2 and better grades.

Evidence adduced at the hearing indicates that under a size regulation a much greater percentage of fruit would be eliminated in some packing houses than in others. For instance, the records of certain packing houses for the 1944-45 and 1945-46 seasons indicate that only 1 percent of sizes packed were smaller than size 432. Records of other houses show that, during the same period, 15 percent of the fruit handled was smaller than size 432.

It was not demonstrated that the limited grade and size regulations proposed would be more effective in establishing and maintaining such orderly marketing conditions as will establish parity prices to producers than would volume regulations now provided for by the marketing agreement and order. It is concluded that the evidence is insufficient to substantiate the adoption of the proposed grade and size regulations.

(3) The marketing agreement and order should not be amended to provide for Federal-State inspection inasmuch as the adoption of this proposal was contingent upon the addition of provisions for grade and size regulations to the marketing agreement and order.

(4) A further clarification of the term "first handler" in the marketing agreement and order is not necessary. Testimony presented at the hearing shows that the meaning of this term is clearly understood at the present time.

(5) District 1 and District 2 should be established as set forth in the aforesaid notice of hearing (12 F. R. 4516).

The boundary line between District 1 and District 2 is well defined and definite.

The line has, on each side, a rather wide strip of territory in which no lemons are grown. District 2 as set forth in the aforesaid notice of hearing has been recognized as a separate area since 1934. No difficulty will be experienced in identifying all lemon producers and handlers by these districts.

(6) The marketing agreement and order should be amended to provide for the issuance of regulations for lemons grown in District 2 different from the regulations issued for lemons grown in District 1.

Substantial differences exist between District 1 and District 2 with regard to climatic conditions, blooming, harvesting, storage, and marketing insofar as they apply to the lemons covered by the marketing agreement and order.

The climate is different in these two districts. It is very warm in District 2 in the summer and cool in the winter. Most days are sunny and it is very dry in that district. The climate in that portion of District 1 in which most of the lemons are grown is characterized by cool summers and relatively high humidity. Lemon trees in District 1 bloom throughout the year whereas trees in District 2 only bloom once.

Lemons grown in District 1 are harvested throughout the year with the heaviest picks generally being made from December 1 to July 1. Usually five to seven picks are made in this district. Most of the lemons grown in District 2 are harvested during the months of October, November, and December with the heaviest picks being made in November and December. Generally only two picks are made in District 2.

Many of the lemons grown in District 1 are stored from one to five months for curing and marketing purposes. Extensive storage facilities have been built in this district. Lemons grown in District 2 are not suitable for storage, and the fruit is marketed as soon as possible after picking. Lemons grown in District 1 are marketed throughout the year whereas lemons grown in District 2 are generally marketed in October, November, and December.

This difference in marketing periods has, in the past, resulted in the issuance of regulations which provided allotments for handlers handling lemons grown in District 2 too small to market the crop in the normal marketing period. Such regulations were based on a twelve-month marketing period whereas lemons grown in District 2 should be marketed in a much shorter period. The proposed amendments would provide the necessary flexibility in the operation of the marketing agreement and order to alleviate this situation.

Lemons grown in District 2 compete in the market with those grown in District 1. Varieties of lemons grown in the two districts are the same. Plantings of lemons in any district would be greatly accelerated if the handling of lemons grown in that district were not regulated inasmuch as producers in that district would share in the benefits of regulation without participation therein. It would be unfair to those who remain under the marketing agreement and

## PROPOSED RULE MAKING

order to exclude the regulation of the handling of some of the lemons grown in either California or Arizona. Regulations for lemons grown in District 1 and District 2 should be recommended by the same administrative committee, and the marketing of such lemons must be integrated and coordinated. The marketing agreement and order program is concerned with problems which arise in every lemon area in the States of California and Arizona, and the same marketing agreement and order should continue to cover all areas within these states.

(7) The marketing agreement and order should not be amended to delete the provisions regulating the handling of lemons grown in the State of Arizona.

In view of the findings and conclusions hereinbefore set forth, on the basis of the evidence introduced at the hearing and the record thereof, with respect to the establishment of District 1 and District 2 and authority to issue different regulations for lemons grown in the respective districts, the handling of lemons grown in the State of Arizona should not be excluded from regulation under the marketing agreement and order program.

*Rulings on exceptions to recommended decision.* Exceptions to the recommended decision were filed by or on behalf of the Independent Citrus Growers and Shippers Association, the Mutual Orange Distributors, and the Arizona Orange - Lemon Growers Association. Such exceptions, whether of a general, specific, or implied nature are overruled, on a review of the record, as being inconsistent with the record and the findings and conclusions in this decision.

*General findings.* (1) The marketing agreement as hereby proposed to be amended and the order as hereby proposed to be amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The marketing agreement as hereby proposed to be amended and the order as hereby proposed to be amended regulate the handling of lemons grown in the States of California and Arizona in the same manner as and are applicable only to persons in the respective classes of industrial and commercial activity specified in the marketing agreement upon which hearings have been held; and

(3) There are differences in the production and marketing of said fruit in the production area covered by said marketing agreement as hereby proposed to be amended and of the order as hereby proposed to be amended that make necessary different terms and provisions applicable to different parts of such area, and the proposed terms and provisions, so far as practicable, give due recognition to such differences.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Marketing Agreement Regulating the Handling of Lemons Grown in the States of California and Arizona" and "Order Amending the Order Regulating the Handling of Lemons Grown in the States of Cali-

fornia and Arizona" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

*It is hereby ordered.* That all of this decision except the attached agreement amending the marketing agreement be published in the *FEDERAL REGISTER*. The regulatory provisions of the said agreement amending the marketing agreement are identical with those contained in the attached order amending the order which will be published with this decision.

This decision filed at Washington, D. C., this 19th day of November 1947.

*Order<sup>1</sup> Amending the Order Regulating the Handling of Lemons Grown in California and Arizona*

*§ 953.0 Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159), a public hearing was held at Los Angeles, California, on December 3, 1946 and on August 7, 1947, and at Phoenix, Arizona, on August 4, 1947, upon proposed amendments to the marketing agreement and to Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.) regulating the handling of lemons grown in the States of California and Arizona. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(a) The said order as hereby amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The said order as hereby amended regulates the handling of lemons grown in the States of California and Arizona in the same manner as the aforementioned marketing agreement as amended, effective as of the same time as the amendment of the said order, and the said order as hereby amended is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(c) There are differences in the production and marketing of said fruit in the production area covered by the said order as hereby amended that make necessary different terms and provisions applicable to different parts of such area, and the terms and provisions hereof, so far as practicable, give due recognition to such differences.

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

*It is, therefore, ordered.* That, on and after the effective date hereof, the handling of lemons grown in the States of California and Arizona shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order as hereby amended; and such order is hereby amended as follows:

1. Delete paragraph (g) of § 953.1 *Definitions* of the order and substitute therefor the following:

(g) "Handle" means to transport, ship, sell, or in any other way to place lemons in the current of interstate commerce or commerce with Canada, or so as directly to burden, obstruct, or affect such interstate commerce or such commerce with Canada.

2. Delete paragraph (b) (1) of § 953.4 *Regulation* of the order and substitute therefor the following:

(1) It shall be the duty of the committee to investigate the supply and demand conditions for lemons. Whenever the committee finds that such conditions make it advisable to regulate, pursuant to this section, the handling of lemons during any week of the fiscal year, it shall recommend to the Secretary the quantity of lemons which it deems advisable to be handled during such week in each district defined in (m) of this section. Thereafter, the committee shall promptly report such findings and recommendations, together with supporting information, to the Secretary.

3. Delete paragraph (c) of § 953.4 of the order and substitute therefor the following:

(c) *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of lemons which may be handled during a specified week in each district, as aforesaid, will tend to effectuate the declared policy of the act, he shall fix such a quantity of lemons which may be handled during such week in each such district, which quantity may, at any time during such week, be increased by the Secretary. The committee shall be informed immediately of any such regulation issued by the Secretary and shall promptly give adequate notice thereof to handlers.

4. Delete paragraph (d) (6) of § 953.4 of the order and substitute therefor the following:

(6) The quantity of each handler's available lemons, as computed pursuant to this section, shall be reported by the committee to the Secretary and shall constitute the recommendation of the committee as the quantity of lemons to be used by the Secretary in determining the prorate base for each such handler: *Provided*, That such quantity may be

adjusted by (i) the deduction of any undershipments, as provided for in paragraph (g) of this section, or (ii) the addition of any overshipments, as provided for in paragraph (f) of this section, in the event any such handler makes an under-shipment or an over-shipment during the week preceding that in which such quantity was computed. Such report shall be made on the basis of the total quantity of each handler's available lemons in each of the aforesaid districts.

5. Delete paragraph (d) (7) of § 953.4 of the order and substitute therefor the following:

(7) Upon the basis of the recommendations and reports submitted by the committee, or other available information, the Secretary shall fix a prorate base for each handler who has made application therefor to the committee. Such prorate base shall represent the ratio between the quantity of each such handler's available lemons in a district, as aforesaid, and the quantity of all such handlers' available lemons in the same district, and shall be applicable for the two-week period immediately following the week in which it is fixed by the Secretary.

6. Delete paragraph (e) of § 953.4 of the order and substitute therefor the following:

(e) *Allotments.* Whenever the Secretary has fixed the quantity of lemons which may be handled during any week in a district, as aforesaid, and has fixed the handlers' prorate bases, the committee shall calculate the quantity of lemons which may be handled by each such handler during such week. The said quantity shall be the allotment of each such handler and shall be in an amount equal to the product of the handler's prorate base and the quantity of lemons fixed by the Secretary as the quantity which may be handled during such week in such district. The committee shall give adequate notice to each handler of the allotment computed for him pursuant hereto.

7. Delete paragraph (h) (1) of § 953.4 of the order and substitute therefor the following:

(1) A handler for whom a prorate base has been established may lend allotments to other handlers: *Provided*, That such loans are confined to the same district, as defined in paragraph (m) of this section, and evidenced by a bona fide written agreement, filed with the committee within 48 hours after the agreement has been entered into, under the terms of which such allotments are to be repaid during the current season.

8. Add to § 953.4 of the order the following paragraph:

(m) *Districts.* (1) "District 1" shall include that part of the State of California not included in District 2.

(2) "District 2" shall include the State of Arizona; Imperial County, California; and that part of Riverside County, California, situated south and east of the San Gorgonio Pass.

*Order Directing That Referendum Be Conducted Among Producers of Lemons Grown in the States of California and Arizona and Designating Agent To Conduct Such Referendum; Determination of Representative Period*

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) it is hereby directed that a referendum be conducted among the producers who, during the period November 1, 1946, to October 31, 1947, both dates inclusive (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged in the State of California or the State of Arizona in the production of lemons for market, to determine whether such producers favor the issuance of an order amending Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.), regulating the handling of lemons grown in the States of California and Arizona, which is attached to the decision of the Secretary of Agriculture filed simultaneously herewith; and M. T. Coogan, Field Representative, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, 1206 Santee Street, 12th Floor, Los Angeles 15, California, is hereby designated agent of the Secretary of Agriculture to perform the following functions:

(1) Conduct said referendum in accordance with the rules and limitations herein set forth, giving an opportunity to each producer of lemons grown in the State of California or the State of Arizona to cast his ballot relative to the aforesaid proposed amendment on forms furnished by the designated agent of the Secretary of Agriculture. A cooperative association of such producers, bona fide engaged in marketing such lemons may vote for the producers who are members of, stockholders in, or under contract with, such cooperative association, and the vote of such cooperative association shall be considered as the vote of all such producers.

(2) Determine the time of commencement, duration, and termination of the period of the referendum: *Provided*, That the referendum shall be completed prior to January 15, 1948.

(3) Determine the necessary number of polling places and designate and announce such polling places, the area to be served by each such polling place, and the hours during which such polling places will be open: *Provided*, That all such polling places shall remain open not less than four (4) consecutive daylight hours during each day announced.

(4) In addition to the designation and announcement of polling places, if the said agent determines it advisable, arrange for balloting by mail, in which event the said agent shall designate the place or places to which such ballots shall be mailed and shall give notice of the last date on which such ballots must be placed in the mail.

(5) Give public notice of the time and place of balloting (a) by posting a notice thereof at least three (3) days in advance of the first voting day at each polling place, (b) by issuing a press release in newspapers having general circulation in the lemon producing districts of the States of California and Arizona, and (c) by such other means as the said agent may deem advisable.

(6) Appoint any of the county agricultural extension agents in the counties of California and Arizona, or any other persons deemed necessary or desirable, to assist the said agent in carrying out his duties hereunder: *Provided*, That such county agricultural extension agents and other persons so appointed shall serve without compensation and may be authorized, by the said agent, to perform the following functions in accordance with the rules set forth herein:

(a) Give public notice of the referendum in the manner specified herein.

(b) Preside as a poll officer at a designated polling place.

(c) Distribute ballots to producers and receive such ballots after they are cast.

(d) Secure the name and address of each person casting a ballot and inquire into the eligibility of each such person to vote.

(e) Forward to M. T. Coogan, 1206 Santee Street, 12th Floor, Los Angeles 15, California, immediately after the close of the referendum the following: (i) the name and address of each producer who cast a ballot at the polling place designated for such poll officer and whose ballot was received by such officer; (ii) all of such ballots which were received by the officer, together with his certificate that the ballots forwarded are all of the ballots cast and received during the referendum period at the designated polling place; (iii) a statement showing the time and place the notice of referendum was posted and, if the notice was mailed to producers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing; and (iv) a detailed statement explaining the method used in giving publicity to such referendum.

(7) Upon receipt by the designated agent of all ballots cast and such other documents as are required pursuant hereto, the ballots shall be canvassed by him and the results of the referendum shall be forwarded with the ballots and other required documents to the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

The Fruit and Vegetable Branch shall prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results.

The designated agent and any appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or if such ballot shall be chal-

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lenged by any other person, said agent or appointee shall endorse, above his signature, on the back of said ballot a statement to the effect that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

All ballots shall be treated as confidential and the contents thereof shall not be divulged except to (1) the Secretary of Agriculture, (2) his agent designated herein to conduct such referendum, (3) members of the Production and Marketing Administration, United States Department of Agriculture, (4) members of the Office of the Solicitor, United States Department of Agriculture, and (5) such other persons as the Secretary may hereafter designate.

The Director of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the rules and the limitations herein set forth, to govern the procedure to be followed by the said agent and appointees in conducting said referendum.

Done at Washington, D. C. this 19th day of November 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 47-10364; Filed, Nov. 24, 1947;  
8:53 a. m.]

## [7 CFR, Part 967]

HANDLING OF MILK IN SOUTH BEND-LA  
PORTE, INB., MARKETING AREADECISION WITH RESPECT TO PROPOSED  
MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Supps. 900.1 et seq; 10 F. R. 11791; 11 F. R. 7737; 12 F. R. 1159, 4904) a public hearing was held at South Bend, Indiana, April 28-May 2, and May 5-6, 1947, inclusive, pursuant to the notice thereof which was published in the *FEDERAL REGISTER* on April 4, 1947 (12 F. R. 2258), upon a proposed marketing agreement for the South Bend-La Porte marketing area and to the proposed amendment to the order, as amended, regulating the handling of milk in the St. Joseph County, Indiana, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on September 26, 1947, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision (12 F. R. 6472) in this proceeding. The notice of the filing of such recommended decision and oppor-

tunity to file written exceptions thereto was published in the *FEDERAL REGISTER* October 1, 1947 (12 F. R. 6472).

The principal issues presented on the record of the hearing were concerned with the following:

(1) The content and scope of various definitions including, "marketing area," "producer," "handler," "approved plant" and others.

(2) The duties and responsibilities of the market administrator.

(3) The requirements of handlers in connection with reports and record-keeping.

(4) The classification and allocation of milk.

(5) The determination and structure of prices for the various classes of milk.

(6) The application of certain provisions of the order.

(7) The determination of the uniform price of milk to be paid to producers.

(8) The time and method of payment for producer milk.

(9) The expense of administration.

(10) Marketing service deductions.

(11) The adjustment of accounts and interest on overdue accounts.

*Rulings on exceptions.* Exceptions to the recommended decision were filed on behalf of producers and handlers.

In arriving at the findings, conclusions, and actions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and action decided upon herein with respect to the several issues are at variance with the exceptions pertaining thereto such exceptions are overruled.

*Findings and conclusions.* The following findings and conclusions with respect to the material issues are based upon the evidence introduced at the hearing, and the record thereof:

(1) (a) The marketing area should be defined to include the municipalities of South Bend, Mishawaka, La Porte and Michigan City, Indiana.

Current Order No. 20 regulates the handling of milk in La Porte County, Indiana, which encompasses the cities of La Porte and Michigan City. Current Order No. 67 regulates the handling of milk in St. Joseph County, Indiana, including the cities of South Bend and Mishawaka but excluding the townships of Olive, Liberty and Lincoln. These two counties contain no other cities. These four cities have ordinances which specify similar health requirements covering the production, processing, and distribution of milk for fluid consumption within their limits. These ordinances are not applicable to that portion of the two counties included in the present marketing areas outside of the corporate limits of these cities. There is milk sold outside of the city limits of the four cities but inside of the current marketing areas which is not subject to regulation, since Current Orders No. 20 and No. 67 (hereinafter referred to as the "Current Orders") regulate only the handling of milk meeting city ordinance requirements.

Handlers proposed to extend the marketing area to include, in addition to the

territory defined in the Current Orders, certain townships in Porter County, Indiana, and certain adjoining townships in Michigan. They also proposed to extend regulation to the handling of un-inspected milk. Producers supported the inclusion in the marketing area of the four cities and the townships adjacent thereto. Since only approved milk is to be priced under the order (see conclusion (1) (b) (c) and (d)) insufficient justification was shown for including in the marketing area territory other than that within the four cities. The reduction of the marketing area to coincide with the area subject to ordinance requirements of the four cities, will provide for the pricing of all milk which is normally produced for sale in the marketing area as defined herein.

A proposal was made for the consolidation of the Current Orders by redefining the marketing area under Order No. 67. The production and marketing of milk for the cities of South Bend, Mishawaka, La Porte and Michigan City, are subject to common economic and climatic conditions. On the average the uniform prices received by producers under Order No. 20 have been substantially the same as those received by producers under Order No. 67. Producers located both in Indiana and Michigan supplying any one of the four given cities are intermingled with producers supplying one or more of the remaining three cities. Such producers are intermingled with producers supplying the metropolitan Chicago markets, with dairy farmers supplying certain Michigan markets and with dairy farmers supplying dairy manufacturing plants located in Indiana and Michigan.

Receiving stations for the Chicago market are located at Galien, Michigan, and Wellsboro, Tea Garden and Kouts, Indiana. Trucks pick up milk for these stations from farmers who are intermingled with farmers supplying the four cities in question. Handlers have purchased emergency milk from manufacturing plants located at Galien and Niles, Michigan. Surplus milk from handlers is disposed of to manufacturing plants States outside of Indiana and Michigan, and Warsaw, Nappanee, New Paris and Goshen, Indiana. These manufacturing plants produce dairy products which are distributed or which are sold in competition with products disposed of in other States outside of Indiana and Michigan. Some handlers operate retail and wholesale routes extending into Michigan. Thus, milk produced for sale in these four cities is in the current of inter-state commerce or directly burdens, obstructs or affects inter-state commerce in milk and its products.

The Current Orders have been in effect since 1943. Previous to this date a joint State and Federal Order was in effect in La Porte County, and St. Joseph County was under State regulation. Producers testified that these orders have "stabilized" the market for milk. The evidence also shows that there is a continued need for an order in these markets to prevent the chaotic market conditions which prevailed previous to regulation and to assure an adequate supply of pure and wholesome milk for these cities.

(b) The definition of a "producer" should include dairy farmers who meet, in the production of milk, the city health ordinance inspection requirements of the cities included in the marketing area and whose milk is received at an approved plant, or is temporarily diverted to an unapproved plant.

A definition of a producer is necessary to designate what milk is to be priced under the order. Dairy farmers supplying market milk for South Bend, Mishawaka, La Porte and Michigan City must conform to very similar health requirements. Under the act, one of the primary purposes of regulation is to assure an adequate supply of pure and wholesome milk in the marketing area. The term producer should be restricted to those farmers who produce milk which is eligible for sale as Class I and Class II milk under these ordinances. (See findings and conclusions under (1) (c)). Producers, whose milk is temporarily diverted to an unapproved plant, should not lose their status as producers.

It is contemplated that this definition will include the same dairy farmers as producers as are now included under the Current Orders except so-called "degraded" producers. Degraded producers are dairy farmers who temporarily lose their approved production status. Milk produced by such farmers is not eligible for Class I and Class II uses as Grade A products under current ordinance requirements and, therefore, should not be treated as producer milk.

(c) The definition of a "handler" should include a person operating an approved plant and a cooperative association with respect to milk handled for its account.

Producers and handlers proposed, in addition to persons operating approved plants, the inclusion of operators of manufacturing plants who purchase unapproved milk from dairy farmers for the manufacture of dairy products and also distribute some of their receipts as fluid milk in the marketing area as defined in Current Order No. 67. Producers would designate such persons as handlers for reporting only, while handlers proposed that such persons would be subject to all provisions of the order.

A definition of a handler is necessary in order to specify what type of processors or distributors are to be subject to regulation. Only operators of plants approved by the health authorities of the municipalities in the marketing area may process and distribute in the marketing area Class I and Class II milk.

The evidence indicated that milk received by non-handlers who disposed of fluid milk inside the current marketing areas but outside of the four municipalities was of manufacturing quality similar to milk received at other nearby manufacturing plants in Indiana and Michigan. The evidence failed to show why such milk should be priced under the order the same as milk meeting ordinance requirements, or a sound basis for pricing such milk if provisions were made under the order for its inclusion. The inclusion of such plants with a large proportion of their business devoted to manufacturing or the lower priced classes of

utilization, would result in substantial money withdrawals by them from the pool. No justification was shown for pricing such milk under the order and reducing returns to producers who meet the more rigid health requirements of the cities included in the marketing area.

Handlers contended that the sale just outside the city limits of South Bend and Mishawaka of unapproved milk not subject to regulation resulted in unfair competition. Handlers in their exceptions pointed out that the recommended allocation provisions literally required them to pay Class I prices for unapproved milk disposed of outside the marketing area in competition with milk not priced under the order, even though some of the health authorities permitted the processing of such milk in approved plants. This situation has been recognized in the allocation provisions contained herein.

The evidence did not justify the inclusion of unapproved plants for reporting purposes only. Therefore, the definition of a handler should include an operator of an approved plant, and a cooperative association with respect to producer milk diverted to unapproved plants or milk caused to be delivered to another handler for the account of such association. The inclusion of a cooperative association as a handler is necessary to place responsibility upon the association for the payment to producers for such milk and equalization with the pool.

(d) An "approved plant" should be defined as a milk plant which is approved for the handling and distribution of fluid milk by the health authorities of any of the cities included in the marketing area and from which a route is operated wholly or partially within the marketing area.

Handlers contended that an approved plant should also include plants approved by the Indiana State Board of Health or the Michigan State Board of Health. The evidence showed that all plants meeting approval of the latter agencies and from which milk was sold in the marketing area, as defined in the Current Orders, were chiefly manufacturing plants. As previously pointed out, the scope of the regulation should be limited to "producer milk" and to handlers meeting ordinance requirements of the cities included in the marketing area, and should not be extended to the milk of unapproved dairy farmers and persons operating manufacturing plants. (See conclusions (1) (a), (b) and (c).)

(e) The term "other source milk" should include all skim milk and butterfat received from sources other than from producer milk but should exclude nonfluid milk products received and disposed of in the same form.

Under the Current Orders a distinction is made between "emergency milk" and "milk from other sources", the former requiring a temporary permit from the responsible health authority. Under prevailing conditions, it has been the practice of the health authorities to permit handlers to bring in emergency milk whenever needed. Since it is recommended that milk received from sources other than producers be subject to iden-

tical classification and allocation procedures, no useful purpose would be served by separate definitions for "other source milk" and "emergency milk".

Handlers not subject to the pricing provisions of the order do not receive milk from producers, therefore milk transferred from them to handlers who receive milk from producers must be other source milk. Milk which is subject to the pricing provisions of another Federal order and is received by a handler (under Order 67) not subject to such other order would be considered as other source milk.

Nonfluid manufactured milk products disposed of in the same form as received are excluded from other source milk because such products would be classified in the lower priced classes and then deducted therefrom through the allocation procedure.

The definition for other source milk is substantially the same as the definition proposed by handlers for "supplemental milk" and the definition proposed by producers for "milk from other sources".

Handlers and producers proposed a "degraded" milk definition for milk received from producers who temporarily lose their status of full approval by the health department. Under the Current Orders such producers receive the same uniform price as regular approved producers. In connection with the proposed definition of degraded milk it was proposed that such producers be paid the uniform price less 20 cents per hundred-weight. This treatment of degraded milk was supported on the basis that often producers lose their approved status for a minor infraction of the health ordinance. It was stated that some incentive over the manufacturing price was necessary to keep such producers from leaving the market permanently. The connotation of degraded milk as other source milk and the consequent exclusion of such milk from the pricing provisions of the order will offer an even greater incentive for producers of degraded milk to reestablish themselves as approved producers. The use of degraded milk for fluid purposes under a special label, similar or identical to the provision made by the health authorities for the handling of emergency milk, prevailed only for a short period during the war. Therefore, there appears to be no reason at this time why milk which is not eligible for "Grade A" fluid use should receive preferential treatment at the expense of regular approved procedure.

(f) The definition of a cooperative association reduces the language in various provisions of the order where such term is used. There are two associations of producers supplying milk to the South Bend-La Porte marketing area. They are the Pure Milk Association and the La Porte County Milk Producers Association, Inc. These associations testified that they are organized and function in accordance with provisions of the Capper-Volstead Act. Both organizations have been actively engaged in the marketing of milk for their members.

(g) Definition of a "route" is useful in defining other terms. "Delivery

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"period" has been defined as the calendar month or the total portion thereof in which the order is in effect. The customary period for accounting and settlement in these markets is one month, and one month has been used as the delivery period under the Current Orders. "Producer milk" has been defined to shorten the language in the various sections of the order. The definitions of the terms "act," "Secretary," "Department of Agriculture," and "person," are standard terms and are common to market orders. Their inclusion is necessary for simplicity and brevity in constructing other terms and provisions of the order.

(2) It is concluded that a section should be included in the order covering the power and duties of the market administrator.

The Agricultural Marketing Agreement Act of 1937, provides for the selection by the Secretary of an agency to administer orders issued under the act. It also sets forth the powers of such agency. The handlers contend, in their exceptions, that advance notice should be required in connection with the power of the market administrator to issue rules and regulations. Such action is required by law, except where it is impracticable, unnecessary, or contrary to the public interest, and it is, therefore, unnecessary to incorporate such a provision in the order.

The market administrator's duties specified in the order are those required for the proper administration thereof. These duties include the verification of all reports and payments of handlers through inspection of their records or the records of other handlers or persons upon which the classification of milk depends. Handlers pointed out that inspection of records by the market administrator should be limited to "pertinent" records. The market administrator is required to verify only the handlers' reports, his powers do not extend beyond examination of records which are pertinent to such verification.

Under other provisions of the order the market administrator must determine the class prices for skim milk and butterfat, producers' uniform price, and the butterfat differential to producers. This information is needed by producers and handlers in the market and is of interest to the public. The provision for the release of class prices on the 7th day of the month following the delivery period is reasonable in view of the time required to secure prices upon which class prices are determined. Following receipt of reports from handlers several days are required for the market administrator to make the pool computation; and thus the 14th day following the delivery period is a reasonable date for the market administrator to report the uniform price to handlers and producers.

The market administrator has access to valuable statistical information for the market. Many of these statistics are compiled through the regular activities of his office. The release of such statistics and information as do not reveal confidential information is of assistance to handlers, producers, and to the public, in acquainting them with

general market conditions and in assisting the promotion of orderly marketing of milk.

(3) It is concluded that a section covering the requirements for reporting the receipts and utilization of milk by handlers and the verification of handlers' accounts by the market administrator should be included in the order.

The proper classification and pricing of producer milk for each delivery period depends upon the keeping of accurate accounts and records by handlers and upon verification of their reports by the market administrator. To carry out the intent of the act and the provisions of an order issued thereunder, the market administrator is charged with the responsibility of verifying the reports of handlers by auditing records necessary for such verification. An auditing program is a protection to producers by assuring them that their milk is paid for in accordance with the terms of the order. An auditing program is also a protection to the handlers as an assurance that equity exists among handlers in the cost of milk in accordance with its use.

It was contended that a limit should be placed on the time handlers must keep accounts and records. A hearing on such a proposal to be made applicable to all milk orders has since been held. To promote uniformity, such a provision should result from the latter hearing, and therefore is not included at this time.

In order for the market administrator to classify and price producer milk, it is necessary that each handler report his receipts of skim milk and butterfat from all sources. Exception is made for nonfluid milk products received and disposed of in the same form. In order that producers may be paid in advance of verification (which determines the final classification of milk and requires time), each handler must report the receipts and utilization of all milk as promptly as possible after the end of the delivery period so that a uniform price may be determined and settlement made with producers monthly. To promote uniformity in reporting, it is necessary for the market administrator to prescribe the forms on which such receipts and utilization are reported by handlers.

Handlers contended that the powers of the market administrator to require "Such other information with respect to all receipts and utilization as the market administrator may prescribe" § 967.3 (a) (3) were too broad. This is a standard provision in most Federal milk marketing orders. It may be necessary for the market administrator to secure some information in addition to that specifically required under other provisions. It is intended that such requests will be made only for necessary information and as far in advance as is reasonable and practicable. Producer-handlers are not required to report except at the request of the market administrator. There is no point in pricing milk for a producer-handler since by definition the only producer milk received in his plant is from his own production or milk transferred by a handler to him. Such milk as originates from producers is therefore subject to pricing through regulation of the

transferring handler. For statistical purposes it may be desirable for the market administrator to secure reports from producer-handlers. Reports may be necessary also to establish their status as producer-handlers.

The only practical method of verifying the receipts and utilization of producer milk is by inspecting the handler's accounts and records. For a complete audit it is necessary to verify total receipts of skim milk and butterfat from all sources, to verify the utilization of such receipts, the payments therefor, and inspect any other related accounts or records.

(4) A section should be included in the order to provide for the classification of skim milk and butterfat received by a handler in producer milk, in other source milk and from other handlers.

(a) The principle of use classification whereby products of similar characteristics and use values are grouped together in defined classes has been employed under the Current Orders as well as in many other fluid milk markets throughout the country. Skim milk and butterfat received in producer milk, in other source milk and from other handlers are intermingled in handlers' plants; therefore it is necessary to classify all such receipts in order to determine the classification of producer milk.

Under the Current Orders, milk is classified on a volume basis in Class I but on a butterfat basis in the other classes. Reconciliation of sales to receipts is made on a milk equivalent basis with any necessary volume adjustments made in Class IV milk. Under this method of reconciliation, a minus quantity quite frequently appears in Class IV milk. This results in confusion and strong objection on the part of handlers.

It is determined that the "milk equivalent basis" of classification and pricing be replaced by a skim milk and butterfat system of classification and pricing. This change will assure equity among handlers in the cost of milk. A skim milk and butterfat system of classification will show more clearly the utilization of skim milk and butterfat in each class by each handler and for the market as a whole. It also facilitates cost accounting.

(b) The classification of skim milk and butterfat should be made on the basis of four classes of milk.

(1) Class I milk should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, flavored milk, flavored milk drink, and buttermilk (with exceptions for certain bulk milk and cream and for certain items dumped or disposed of for livestock feed). Under the Current Orders fluid milk and flavored milk drinks regardless of butterfat test are included in Class I milk. The evidence does not justify excluding from Class I milk fluid milk products containing less than 3.25 percent butterfat as proposed by handlers. The items included in Class I milk must be made or processed from approved milk. They are disposed of in fluid form through the same or similar retail and wholesale channels, and are used principally as a beverage. The physical characteristics, values, and uses of these items are very similar. In contrast, the items included

in Class III and Class IV milk are chiefly manufactured products, all of which may be manufactured from uninspected milk.

Shrinkage on producer milk in excess of 2 percent of such receipts and all skim milk and butterfat not specifically accounted for in the other defined classes should be classified as Class I milk. The classification of excessive shrinkage and unaccounted for milk as Class I milk is necessary for the proper protection of producers.

(2) Class II milk should include all skim milk and butterfat disposed of as fluid cream, any mixture of milk and cream containing not less than 6 percent butterfat and eggnog.

Under the Current Orders fluid cream is classified as Class II milk. The physical characteristics and use of cream are somewhat different from Class I milk. Fluid cream sold in the marketing area must be derived from approved milk. The testimony indicated that a 6 percent butterfat minimum for Class II milk is reasonable as a breaking point between products characterized as cream and as milk. Cream is the basic ingredient of eggnog and, therefore, eggnog should be classified as Class II milk.

(3) Class III milk should be all skim milk and butterfat used to produce any milk product other than those specified as Class I milk, Class II milk, or Class IV milk, and all skim milk and butterfat disposed of in bulk as milk, skim milk, or cream to any manufacturer of candy, soup, or bakery products and used in such products.

Producer milk is used in the manufacture of ice cream, ice cream mix, cottage cheese, evaporated or condensed milk, other manufactured dairy products, soup, candy and bakery products. Approved milk is not required for these uses. Some handlers are engaged in Class III operations. Generally speaking, producer milk finding its way into Class III uses does so because production is in excess of the Class I and Class II requirements. A manufacturing class is necessary to permit the free movement of milk into manufacturing channels without undue losses to handlers, when producer receipts are in excess of market demand for Class I and Class II milk.

(4) Class IV milk should include all skim milk and butterfat used to produce butter, cheese and nonfat dry milk solids; and it should include skim milk, buttermilk and flavored milk drink dumped or disposed of as animal feed and plant shrinkage.

The products classified as Class IV milk are commonly considered as the lowest-value uses for milk in manufacturing channels. Occasionally handlers use milk in excess of Class I and Class II requirements for making butter. Under the Current Orders butter is included as a Class IV product. Skim milk and butterfat is also transferred or diverted to manufacturing plants engaged in the churning of butter, cheese-making and dry skim milk operations. During periods of seasonal surplus the facilities for using milk for products classified as Class III may not be adequate for the disposal of all surplus milk; therefore there is need for a Class IV classification. Skim

milk, buttermilk and returns of chocolate milk from routes at times must be disposed of by dumping or for use as livestock feed. Because of low returns to handlers for sale as livestock feed, and the lack of a return for dumpage and shrinkage, these uses should be classified in the lowest-priced class.

(c) Shrinkage on the total receipts of skim milk and butterfat should be prorated between producer milk and other source milk.

Producer milk is the major source of skim milk and butterfat for handlers. Handlers also engaged in the manufacture of products such as ice cream, ice cream mix, or butter may use other source milk. In recent years permits have been issued under the various health ordinances to allow handlers to bring in "emergency milk" for Class I and Class II uses. Under the current orders the total shrinkage experienced by a handler in excess of 3 percent of producer milk receipts is allocated to Class I milk. This may create inequities among handlers if milk other than producer milk must be used by one handler and not by another handler.

In 1946, the average of the monthly percentages of shrinkage was 2.4 percent under Order 67 and 4.0 percent under Order 20. More detailed testimony showed that over 40 percent of the handlers under Order 67 showed shrinkage losses of not more than 2 percent of total receipts. These figures reflect more than butterfat lost in processing. They include some butterfat not accounted for as Class I, Class II, Class III, or Class IV milk.

It is concluded that shrinkage should be prorated between receipts of producer milk and other source milk and the maximum shrinkage allowance on producer receipts in Class IV milk should be two percent of such receipts. Shrinkage in excess of 2 percent on producer milk will be Class I milk. To increase the shrinkage allowance in Class IV milk in excess of 2 percent, as favored by handlers, would enhance the possibilities of not accounting for all milk and would increase the possibilities for inequities to arise among handlers.

(d) Provisions should be included in the order covering the responsibility of handlers in the classification, transfer, and diversion of milk.

The only practical means of administering the regulation and assigning responsibility of correct classification is to consider all skim milk and butterfat as Class I milk until the handler who first receives such skim milk and butterfat proves to the market administrator that it should be classified otherwise.

In the case of transfers and diversions to handlers, except to a producer-handler, provision is made for the classification of such milk on the basis of signed statements; *Provided*, That the buyer actually has used skim milk and butterfat in the reported use. In the case where other source milk is received by the transferee-handler, the other source milk must be eliminated through the allocation provision before the final classification of the transferred milk can be ascertained. This is necessary for the protection and proper classification

of producer milk. Producer-handlers are engaged chiefly in Class I and Class II milk operations. Thus, transfers to them are classified as Class I milk if transferred in the form of milk and as Class II if in the form of cream.

Skim milk and butterfat transferred to an unapproved plant may be classified on the basis of a signed statement by the buyer and seller provided the buyer has actually used an equivalent amount of skim milk and butterfat derived by him from milk or cream in the class agreed upon. The claimed utilization of milk should be subject to verification by the market administrator's examination of the buyer's records. Verification of the classification of milk is of equal importance to producers and handlers whether milk is transferred to unapproved plants or to approved plants.

Provision is made for the reclassification of milk if used or reused by a handler in a class different than that in which it was originally classified. Producers in their exceptions contended that the responsibility of handlers in the reclassification of milk should be extended to cover transfers to unapproved plants. The method of classifying milk or cream transferred to an unapproved plant is adequately covered by the provisions relating to such transfer. The classification of products other than milk or cream so disposed of should be on the basis of the form in which they are disposed of by the handler.

(e) In the allocation of skim milk and butterfat, producer milk should not be displaced by other source milk.

Under the provisions of the Current Orders, emergency milk is prorated to the various classes in accordance with the volume of milk used in each class. Milk from other sources is subtracted from the classes in which it is used, and the handler must pay into the pool the difference between the value of such milk at the Class IV price and the price for the class in which it is used.

The definition of other source milk includes emergency milk. To determine the utilization of producer milk by each handler, other source milk is subtracted from the volume in the lowest-price available class, and transfers from other handlers are then subtracted. Since approved milk is produced principally for Class I and Class II requirements of the marketing area, this sequence in the allocation is necessary to prevent other source milk from displacing producer milk in such uses.

However, this method of allocating Class I milk should be modified in the case of Class I milk which is bottled from other source milk and disposed of outside the marketing area under certain conditions. Handlers contend in their exceptions that allocating all Class I milk first to producer milk places them at a competitive disadvantage with non-handlers who sell unapproved milk in the area immediately adjacent to the city limits of South Bend and Nishawaka. This area is considered as part of the regular sales area of handlers. Since unapproved milk may be sold in this area under present health ordinance requirements, handlers contend that the order should not in effect prevent them from

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supplying consumers that do not choose to use "Grade A" milk. Although the evidence indicated that during the first three months of 1947, the prices paid farmers for such unapproved milk was not substantially less than the Class I prices under the order, previous to that time the difference in prices was substantial. Therefore, wherever the health authorities permit the bottling of other source milk in approved plants and the handler segregates such milk in the plant, operates separate routes, and keeps adequate records which permit verification of such sales outside the marketing area, such milk should be allocated first to other source milk. These requirements are reasonable and appear to be the only practical means of administering the provision. The evidence indicates that the problem presented by handlers centers around Class I sales and there is no justification for applying this provision to other than Class I milk. Producer milk sold outside the marketing area is priced to handlers at the class prices applying to sales of similar products in the marketing area.

Producers, in their exceptions, asked that milk which is subject to the pricing and payment provisions under another order issued pursuant to the act be allocated to Class I milk if received in the form of milk and to Class II milk if received in the form of cream. No justification was given for allocating other source milk which may be subject to the pricing provisions of another Federal order differently than any other "other source milk."

(5) (a) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Such relationships are quite pronounced in areas where milk is produced in relatively large quantities and where manufacturing plants serve as alternative outlets for milk produced in these areas. Production and marketing of milk for each type of outlet is subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect to a large extent changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used butter and cheese prices or the prices paid by condensaries as a basis for establishing fluid milk prices. Differentials over these basic or manufacturing prices have been used to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk, and to furnish the necessary incentive to get such milk produced.

Under the Current Orders, Class I and Class II milk prices are determined by stated differentials over basic or manufacturing prices. Under Order No. 20, the average price paid by 21 condensaries and manufacturing plants (3 local and the so-called 18 condensaries) is used as the basic price. Under Order 67, the basic price is the highest of the follow-

ing: (i) The average price paid by 3 local manufacturing plants, (ii) the price resulting from a butter-nonfat dry milk solids formula, and (iii) the price resulting from a butter-cheese formula.

It is concluded that the basic price to be used in establishing Class I and Class II milk prices should be the highest of the following: (i) the paying price of the so-called 18 condensaries, (ii) the butter-cheese formula and (iii) the butter-nonfat dry milk solids formula.

Similar basic price formulas are contained in the Orders issued pursuant to the act for the Chicago and Suburban Chicago marketing areas. Because of the intermingling of producers supplying these markets with producers supplying the South Bend-La Porte marketing area, it is of primary importance that prices be kept in the proper alignment.

Testimony was given favoring the use of the price paid by local manufacturing plants as the basic price. Over a period of time, the paying price of these local plants is closely related to the price paid by the 18 condensaries. However adoption of a wider base as represented by the 18 condensaries or the alternative formulas as the case may be, will more nearly reflect changes in general economic conditions affecting the supply of and demand for milk. This affords a sounder base for establishing Class I and Class II prices.

Provision should be made to use the basic price for the month next preceding the delivery period for establishing the Class I and Class II milk prices. Producers and handlers will know the Class I and Class II milk prices early in the delivery period and thus more orderly marketing will be encouraged. Provision should be made also that the basic formula price effective for July should not be less than that for the preceding month of June, and that the basic price for January should not be higher than that for the preceding month of December. This should assist in preserving the proper seasonal trend of basic prices in accordance with the seasonal pattern of Class I and Class II price differentials.

(b) The Class III milk price should be the average of the basic price paid by the 3 local manufacturing plants named in Current Order 67.

Surplus milk is moved from the South Bend-La Porte marketing area to these manufacturing plants. In some instances, particularly during the flush milk production period, milk is diverted directly from producers' farms to manufacturing plants without being physically received in a handler's plant. The cooperative association supplying the South Bend and Mishawaka markets has taken an active part in arranging for the movement of excess milk to manufacturing plants. Therefore it appears that the most equitable price for milk classified as Class III is the local manufacturing price. If the price for milk made into butter and nonfat dry milk solids is greater than the price paid by the local manufacturing plants, producers should receive a price equivalent to that resulting from such formula. This should be accomplished by providing that the Class

III price per hundredweight of milk should not be less than the Class IV price.

(c) The Class IV milk price should be the price resulting from the butter-nonfat dry milk solids formula.

This recommended formula will result in a price at substantially the same level as under the Current Orders. Under Current Order 67, the total manufacturing allowance in the Class IV formula is included in the make allowance on nonfat dry milk solids. Under Order 20, no make allowance as such is specified. The net value of skim milk and butterfat contained in the milk is determined by adding 30 percent of the value of butter. While these methods of determining the Class IV price appeared to be satisfactory under the milk equivalent basis of classification, they could not be used under a system of pricing skim milk and butterfat separately because of the resulting inequities among handlers. Butter and nonfat dry milk solids prices reflect the value of milk at the commonly accepted lowest-valued uses. The chief use for butterfat in Class IV milk in the marketing area is the manufacture of butter. In order to provide a more equitable method of establishing the Class IV price, a make allowance of 5 cents per pound should be allowed on nonfat dry milk solids and 2 cents per pound on butter. In case the price for nonfat dry milk solids f. o. b. Chicago manufacturing plants is not published and the f. o. b. Chicago prices are used, the 5-cent allowance should be increased to 6 cents to compensate for the differences in such prices represented by transportation costs. The testimony indicates that under prevailing conditions these make allowances are considered reasonable.

(d) A provision for Class V milk should not be included in the order. Class V milk, as proposed, would cover milk received by a handler in excess of his "actual and complete requirements". If after twenty-four hours' notice prior to its receipt by the handler, the Pure Milk Association failed to accept delivery or the market administrator failed to locate a purchaser, such milk would be priced at 20 cents less than the net "actual" price received by the handler, f. o. b. his plant. The principal supporting reason offered for the inclusion of Class V milk was that handlers suffered losses when handling surplus milk. No substantial evidence was presented to show the extent of such losses, and furthermore it was indicated that at times during the past year surplus milk was actually sold by handlers at a profit. Under the proposal, the Class V price would be 20 cents less per hundredweight than whatever price the handler and any buyer of such milk might agree upon. Such a provision could stimulate the development of a constant surplus in the hands of some handlers at the expense of producers and other handlers. Class V would reduce the incentive for handlers with an excessive amount of milk to transfer milk or producers to other handlers who might need milk for Class I or Class II uses. No economic justification was shown for guaranteeing handlers against monetary loss on all surplus milk. In addition to seasonal surplus, excess milk results

from the 6-day system of delivery or because handlers are interested in keeping producers the year round to meet shortages during the fall and winter months. In making this decision, they must consider the possibility of having losses during certain periods and showing profits in others. Emergency milk supplies were brought into the current marketing areas during every month of 1946, except one, and in recent months. The amount of milk used in manufacturing, namely Class III and Class IV, has been a negligible percentage of the quantity of milk received from producers. Furthermore the present Class IV milk definition adequately covers those manufacturing uses which are generally considered as the lowest-valued of all. For those reasons, there would seem to be no point in including a definition of Class V milk and the pricing thereof in the order.

(e) The price differentials above the basic price for Class I and Class II milk should be established to provide for a pronounced seasonal variation and for an increase in the uniform price to producers.

The seasonal pattern of production is significantly different than is the demand for Class I and Class II milk. In the St. Joseph County area, the average daily production per producer in 1946 was 52 percent greater during May, the month of peak production, than during November, the month of low production. For the La Porte marketing area, the variation was 63 percent. In 1944, the first full year under Federal regulation, the seasonal variation in production was about 45 percent in both areas. In contrast, the market demand for Class I and Class II milk has been relatively uniform throughout the year. For example, in the St. Joseph area, daily utilization of Class I milk was only 10 percent higher during May than during November. During the fall months of 1944, through 1946, producer receipts of milk in each area were not adequate to meet Class I and Class II milk requirements. It is not possible to have milk so evenly divided among handlers that the percentage of milk over and above Class I and Class II sales would be uniform among handlers. Also, variation in Class I and Class II sales is not uniform from day to day nor among handlers. To meet these variations, handlers over a period of a month need some milk in excess of their actual Class I and Class II sales. During the short production months of 1944 through 1946, the margin of receipts of producer milk over sales was not adequate to meet the above requirements, and in several months producer receipts were not even enough to meet the Class I and Class II sales. Emergency milk was brought in by handlers because of deficiencies in regular supplies of producer milk.

Testimony submitted by producers indicated that the seasonal variation in production has increased substantially in recent years. It was shown that under the so-called "Base and surplus plan" which was terminated in 1940, production had been maintained on a relatively uniform basis. This plan provided for a financial incentive to farmers for even-

ing out production. Although the influence of this plan extended beyond its termination, seasonal variation in production increased reaching a record high in 1946.

In general, a wide seasonal variation in production creates the problem of surpluses in the spring months and shortages in the fall months. Unit marketing costs tend to be lower with uniform milk production than with a wide seasonal variation in production. The increase in seasonal variation in milk production during recent years was attributed to the small variation in prices during the war years. A relatively high level of prices such as now prevails compared with a lower level requires a wider seasonal variation in prices as an incentive to producers to even out production.

Handlers objected to seasonal pricing chiefly on the basis that such a plan would increase their costs. Seasonal pricing in itself does not increase handlers' costs since seasonal pricing can be accomplished without increasing the average annual cost of milk over basic prices. An increase in the average annual differential over basic prices is justified on the basis of milk supply and economic conditions. If seasonal pricing were not adopted, the price differentials would not have been lower than the average level provided herein.

No significant change has taken place in the number of producers from 1944 to 1947. Adverse weather and crop conditions could easily place these markets in a serious position of milk shortages during the fall months. Milk normally moving into the Chicago and Suburban Chicago markets, which in the past has been a source of emergency supply for some handlers is limited since these markets too have been particularly short of milk during recent years.

Practically all costs incurred by producers in the production of milk such as feed, supplies, labor, and equipment have increased during the past year. Prevailing prices for hogs, beef cattle, and other alternative farm enterprises open to most producers are at relatively high levels.

The evidence presented by both producers and handlers showed that the Class I and Class II differentials should be established on an equal level. If Class II milk is to contribute to the pool approximately the same relative value as under the Current Orders, it is necessary to apply a price to that portion of the skim milk and butterfat used in Class II milk equivalent to the Class I price. Under the milk equivalent basis of pooling in the Current Orders, the Class II price is applicable to a much larger volume of milk than under the recommended system of classifying skim milk and butterfat separately. A comparison of the total pool value of milk for past representative delivery periods indicated that the cost of milk to a handler would have been approximately the same under both systems of pooling and pricing, and any differences depend on the utilization of skim milk derived from milk in the production of cream.

Class differentials above the basic or manufacturing level of milk prices, in addition to meeting the costs of stricter sanitary requirements of inspected milk

should reflect also the competitive and other economic conditions affecting the supply of and demand for milk in the marketing area. A study of the yearly production pattern of producer milk shows that May and June are normally months of flush production and September through December are months of relatively short production. Therefore, the pattern of seasonal pricing should follow the inverse pattern of seasonal production.

The Class I and Class II price differentials over the basic formula price as set forth below together with the Class III and Class IV prices will result in such prices as will reflect the price of feeds and available supplies of feeds and other economic conditions which affect market supply and demand for milk or its products in the marketing area, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Class I and Class II price differentials should be as follows:

[Amount per hundredweight]

Period	Class I	Class II
May and June.....	\$0.50	\$0.50
September, October, November, and December.....	.90	.90
All other months.....	.70	.70

The above schedule of prices substantially increases the seasonal variation in price differentials and may be expected to establish a better relationship between the supply of and demand for milk. It establishes larger and more definite financial incentives for producers to shift some of their milk production from spring to fall. It may influence the seasonal demand if these differentials are reflected in consumer prices. It may also be expected that the future development of new supplies will be somewhat responsive to the seasonal aspects of price and result in a more even production for the market than now prevails.

It is estimated that the uniform price resulting from these increased price differentials for Class I and Class II milk, and other recommended changes will average between 5 and 10 cents per hundredweight more than that resulting from the provisions of the Current Orders.

(f) Prices for skim milk and butterfat should be determined for each class of milk.

Two methods of determining the pool value of milk in each class were considered at the hearing. One would adopt the use of a butterfat differential for each class of milk. Opposition was expressed to this method because with a given price the portion of such price assigned to skim milk would be a residual value. Changes in the price of butterfat would result in an opposite change in the price of skim milk. Skim milk prices could be affected also by seasonal variation in class differentials while butterfat prices remain constant.

The other method would determine the pool value of milk by a separate pricing of skim milk and butterfat. Under this method the price of skim milk and butterfat would be determined from the per hundredweight price of milk in

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each class by applying a percentage break-down. This method eliminates many of the objections raised to the butterfat differential method as well as objections raised to the method employed in the Current Orders. As previously indicated, the classification and pricing of skim milk and butterfat separately would provide also greater equity among handlers and be of benefit in milk and milk product cost accounting.

Under the Current Orders for the 9-month period following June 1946 when dairy products were free from price controls, the average relationship of the value of skim milk and butterfat in Class I milk to the 3.5 percent price of milk in such class was approximately 30 and 70 percent respectively. Handlers supported a breakdown of the class prices to skim milk and butterfat of 4 percent milk on the basis of 28 percent allotted to skim milk and 72 percent to butterfat. On a 3.5 percent butterfat content milk basis, this percentage break-down is equivalent to a 30-70 ratio. It is concluded that the 30-70 relationship should be adopted. A lower percentage for skim milk would result in an unreasonably low skim milk price in Class I milk. In establishing the 70 percent figure for butterfat, consideration was also given to the historical relationship between the price of butterfat in Class I and Class II milk under the proposed methods of establishing these prices and the open market price of cream. Over a period of years a 30-70 break-down would have resulted in a value for butterfat in 3.5 percent milk when expressed on a 40 percent cream basis, equivalent to the open market price of cream in Eastern markets less a reasonable handling and transportation allowance. Since it is concluded that the value of skim milk in 100 pounds of 3.5 percent milk is equal to 30 percent of the respective per hundredweight class prices of milk, the price per hundredweight of skim milk will be 0.311 times the respective class prices (0.30 divided by 0.965). The per hundredweight price of butterfat is equal to 20 times the per hundredweight price of 3.5 percent milk (0.70 divided by 0.035).

The break-down of the Class I and Class II differentials recommended above to a skim milk and butterfat price basis results in the following differentials for skim milk and butterfat in Class I milk and Class II milk.

	Skim milk		
	May through June	September through December	All other months
Class I and Class II milk....	\$0.156	\$0.280	\$0.218
Butterfat			
	May through June	September through December	All other months
	\$10.00	\$18.00	\$14.00

Handlers emphasized the importance of promoting some stability in the relationship between the price of butterfat and the price of skim milk in Class I and Class II milk over a period of time. By breaking down the basic price and the Class I and Class II differentials for milk by a constant percentage relationship the desired stability is achieved. However, it was pointed out in the exceptions that during relatively short periods when the price of butter is exceptionally high in relation to the price of other dairy products, this method of determining the value of butterfat in Class I and Class II milk would result in a butterfat price in Class II milk lower than that in Class III or Class IV. Since Class II sales are mainly butterfat, which must be obtained from inspected milk, provision is made that the price for such butterfat shall not be less than that for Class III or Class IV uses (manufacturing uses).

In the case of Class III and Class IV milk, it is important that the price of skim milk and butterfat be maintained in line with their current values for manufacturing uses. Since the price of skim milk and of butterfat in Class IV milk is determined directly from the price of nonfat dry milk solids and from butter, it is concluded that the Class III price for milk should be broken down in accordance with the relationship of the value contributed to the Class IV price by nonfat dry milk solids and by butter. By following these methods, any changes in either the value of skim milk or butterfat in the basic manufacturing uses will be reflected directly in the price of skim milk and butterfat in Class III and Class IV milk.

(g) Handlers proposed an even-production incentive plan through a "Take-out and pay-back" system of establishing uniform prices on a seasonal basis (sometimes known as the Louisville plan). Producers' testimony was in opposition to this plan. The successful operation of such a system necessitates widespread producer approval and cooperation. For this reason this plan is not feasible for the South Bend-La Porte marketing area at this time.

(h) Prices for milk sold outside the marketing area should be the same as those for milk sold in the marketing area.

It was proposed that the price to be paid by handlers for milk disposed of outside of the marketing area should be "the price as ascertained by the market administrator, which is being paid for milk of equivalent use in the market where such milk is disposed of."

Milk produced for sale in the marketing area is sold also in several other areas. The South Bend-La Porte marketing area does not have excessive supplies of milk, in fact a shortage of milk for the sales area exists. Under such conditions, milk sold in areas outside the marketing area should return to producers at least the price prevailing in the marketing area.

Moreover prices paid by individual distributors and the quality of milk sold by them within a single outside market often vary greatly. The standards and methods by which the market adminis-

trator would ascertain the price being paid in the outside market for milk of equivalent use were not outlined. From the administrative viewpoint, it is considered undesirable and impracticable for the market administrator to determine outside market price levels in such circumstances.

(6) (a) A provision should be included to exempt handlers from the provisions of this order who are subject to regulation under another order issued pursuant to the act.

Class I and Class II milk is disposed of in the South Bend-La Porte marketing area which originates in the Chicago or the Suburban Chicago market. Such milk is subject to regulation under Order 41 or Order 69. Without a provision in this order, it is possible that such milk would be subject to regulation under more than one order. Therefore, if milk which is distributed on a route as Class I and Class II milk in the marketing area and the persons making such disposition are subject to regulation under another order issued pursuant to the Act, such milk should be exempt from the provisions of this order. However, provision should be made for reports from persons making such dispositions at such times and of such nature as may be required by the market administrator.

(b) The producer milk diverted by a handler to an approved plant or to a plant not an approved plant should be considered as received by the handler for whose account such milk was diverted. The provision is necessary to clarify the meaning of the term "received" as used in the order. A handler for whose account milk is diverted should be made responsible for accounting and for payment of such milk.

(c) Producer-handlers should be excluded from the classification and pricing provisions of the order because no useful purpose would be served by classifying their milk and requiring them to account to themselves for milk utilized. Producer-handlers should not be charged administrative and marketing service assessments because it is not necessary for the market administrator to perform such services for producer-handlers.

(7) The determining and announcement of the uniform prices to be paid producers should be made on the basis of 3.5 percent butterfat content milk.

Under Current Order 67 the uniform price is announced on a 4 percent basis, and under Current Order 20, on a 3.8 percent basis. The basis of announcing the uniform price will not affect the handlers' cost of milk. The order requires a handler to pay for skim milk and butterfat at class prices. Therefore, handlers' costs of milk are dependent solely on the class prices of skim milk and butterfat, whereas the uniform price to producers is merely a method of distributing this money to producers. The evidence indicated that the producers would prefer to receive payment for milk at a price announced on a 3.5 percent basis. Producers' satisfaction with the method of announcing the basis of their payments for milk tends to produce more orderly marketing conditions. Moreover, producer prices are announced on

a 3.5 percent basis in the nearby Chicago markets as well as many other markets throughout the country. Statistical comparisons of producer prices on the South Bend-La Porte market and other markets would be facilitated if prices were announced on a 3.5 percent basis.

Current Order 67 provides for a market-wide pool while Current Order 20 provides for an individual-handler pool. All of the evidence presented was in favor of a market-wide pool. There was no proposal for an individual-handler pool.

(8) Payments by handlers for milk received from producers must be made at the uniform price not later than the 18th day following the delivery period.

Payment for milk caused to be delivered to a handler for the account of a cooperative association must be made to the cooperative association at the class prices. A similar provision is contained in Current Order 67.

The butterfat differential to producers under the current orders is determined by adding 20 percent to the price of 92-score butter in the Chicago market and dividing by 10. No evidence was presented to change the basis of determination.

Provision is made for each handler to pay into the producer-settlement fund not later than the 16th of each month the amount by which the value of milk used by him exceeds the value of such milk at the uniform price and to be paid from such fund not later than the 17th the amount by which the value at the uniform price exceeds the value of such milk as used by him.

Producers suggested that a provision should be incorporated in the order which would provide for "token" payments on the first of each month. The evidence indicated that handlers follow the practice of advancing money to producers upon request. There is no need for such provision at this time. The dates for payment to producers on the 18th, to cooperative associations on the 15th of each month, and for payments to and from the producer-settlement fund follow a logical sequence in relation to the dates reports are required from handlers and the date for the announcement of class prices and the uniform price.

(9) The maximum assessment for administrative expenses to be paid by each handler should be 4 cents per hundred-weight of milk.

The administrative assessment should be made on producer milk and on other source milk received by handlers to provide funds for administration of the order. The market administrator must verify the receipts and utilization of other source milk in the same manner as producer milk. Milk which is subject to regulation under another order and is received by a person who operates an approved plant is other source milk under this order. Such milk is subject to an administrative assessment under the first mentioned order. Because of the close proximity of the Chicago and Suburban Chicago markets—the source of such other source milk—duplicate verification of such milk receipts and utilization is unnecessary, and therefore,

milk subject to administrative expense under these orders should not be subject to the administrative assessment under this order.

The Current Orders provide for a 4-cent maximum assessment; however, 3 cents per hundredweight is being charged currently. The evidence indicated that the 4-cent maximum should be maintained because possible increased cost of operation may make it necessary to increase the current 3-cent rate. Such assessment should be paid to the market administrator on or before the 16th day after the end of each delivery period. This is the same date as that upon which payments are required from handlers to the producer-settlement fund and for marketing service deductions; thus handlers may complete settlement with the market administrator for all these accounts at one time.

(10) Deductions should be made from payments to producers for financing marketing services performed for such producers.

The act provides for deductions to be made from payments to producers to finance the expense of marketing service rendered to producers by the market administrator or by a cooperative association.

The maximum rate under the Current Orders is 3 cents per hundredweight on milk of producers who do not receive marketing services from a cooperative association. This rate should be continued in order to assure sufficient funds for the proper rendering of services to producers.

In the case of producer-members of a cooperative association rendering such service for its producer-members, it is provided that a deduction equal to an amount agreed upon by the producer-member and the cooperative association be made.

No assessment is made on a handler's own production since there is no purpose served in checking the weights and tests of the milk delivered to his own plant. Any cost of verification by the market administrator necessary to prove receipts and utilization of such milk should be paid from the administrative assessment account.

Such amounts should be paid to the market administrator or to the cooperative association, respectively, on or before the 16th day after the end of each delivery period. This date is also the one for payment by a handler to the market administrator of amounts due the producer-settlement fund and for the administrative assessment.

(11) Provisions requiring interest on overdue accounts should be included in the order.

The order should provide for the notification of handlers by the market administrator of errors disclosed by audit of handler's accounts, for the payment of moneys due as a result of such errors on or before the next date for making the same type of payments on which such error was discovered following the fifth day after such notice, and for interest payments on overdue accounts. Interest will not accrue until the first date of a calendar month next following the due

date of such obligation. This provides ample time for making payments after notification and before interest will accrue. This provision is necessary for the efficient operation of this regulating program and it is in keeping with good business practices. Interest is usually paid for the use of money or capital. The inclusion of an interest provision should induce the prompt payment of accounts, which action has been judicially recognized as necessary in connection with regulating programs for this nature. It will not operate to penalize persons who make payments promptly. The reasonableness of the rate is demonstrated by the fact that it is in line with the applicable laws of Indiana in such connection.

(12) Other provisions. The other provisions of the order are of a general administrative nature. They include provisions relating to agents, suspension and termination, and separability of provisions. They are standard provisions and are substantiated by the record.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the South Bend-La Porte, Indiana, Marketing Area," and "Order, as Amended, Regulating the Handling of Milk in the South Bend-La Porte, Indiana, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

*It is hereby ordered.* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as proposed to be further amended by the attached amending order which will be published with the decision.

This decision was filed at Washington, D. C., this 19th day of November 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

*Order,<sup>1</sup> As Amended, Regulating the Handling of Milk in the South Bend-La Porte, Indiana, Marketing Area*

**§ 946.0 Findings**—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "Act"), and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders, as amended (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904).

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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a public hearing was held on April 28-May 2 and May 5-6, 1947, upon a proposed marketing agreement for the South Bend-La Porte, Indiana, marketing area and to a proposed amendment to the order, as amended, regulating the handling of milk in the St. Joseph County, Indiana, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions of said order, as amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of said milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to the persons in the respective classes of industrial and commercial activity, specified in a proposed marketing agreement upon which hearings have been held.

(4) The handling of all milk sold or disposed in the marketing area, as defined herein, is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products.

(b) *Additional findings.* (1) It is hereby found and proclaimed in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the prewar period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such milk for the postwar period August 1919-July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture; and the postwar period August 1919-July 1929 is the base period to be used in connection with the said marketing agreement and this order in determining the purchasing power of such milk.

(2) It is hereby found that a pro rata assessment on handlers at a rate not to exceed 4 cents per hundredweight with respect to skim milk and butterfat received within the delivery period in producer milk (including such handlers own production) and in other source milk (excluding milk which is subject to administrative expense of another Federal order issued pursuant to the act), will provide the funds necessary for the maintenance and functions of the market administrator in the administration

of this order and such maximum assessment is approved.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof, the handling of milk in the South Bend-La Porte, Indiana, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended; and the aforesaid order is hereby amended to read as follows:

§ 967.1 *Definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture specified in §§ 967.5 and 967.8.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

(f) "Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(1) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(2) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

(g) "South Bend-La Porte, Indiana, marketing area," hereinafter called the "marketing area" means all territory within the corporate limits of South Bend, Mishawaka, La Porte, and Michigan City, Indiana.

(h) "Approved plant" means a milk plant which is approved by the health authorities of any of the following municipalities: South Bend, Mishawaka, La Porte, or Michigan City, Indiana, for the processing and distribution of fluid milk and from which a route is operated wholly or partially within the marketing area.

(i) "Producer" means any person, except a producer-handler, who produces milk which is received at an approved plant, provided one or more of the health authorities set forth in paragraph (h) of this section has approved or certified the production of such milk for use as Class I milk or Class II milk in the marketing area. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be temporarily diverted by a handler from an approved plant to a plant not an approved plant.

(j) "Producer milk" means milk produced by a producer under the condi-

tions set forth in paragraph (i) of this section.

(k) "Other source milk" means all skim milk and butterfat received in any form, except in a non-fluid milk product disposed of in the same form as received, from sources other than a producer or a handler who receives milk subject to the pricing provisions of this order.

(l) "Route" means a delivery (including a sale at a plant store) of Class I milk to a wholesale or retail stop, other than to a milk processing or distributing plant.

(m) "Handler" means (1) a person who operates an approved plant or (2) a cooperative association with respect to milk: (i) Caused by it to be delivered from a producer's farm to an approved plant for the account of such association or (ii) customarily received as producer milk at an approved plant which is diverted by such association for its account to a plant not an approved plant.

(n) "Producer-handler" means any person who operates an approved plant and whose sole source of supply of skim milk and butterfat is from his own production or from his own production and from an approved plant.

§ 967.2 *Market administrator—(a) Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain in an amount and with surety thereon satisfactory to the Secretary a bond covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 967.9:

(i) The cost of his bond and of the bonds of his employees,

(ii) His own compensation, and

(iii) All other expenses, except those incurred under § 967.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(6) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 10 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to § 967.3 or (ii) payments pursuant to §§ 967.8, 967.9, 967.10, or 967.11;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) Verify all reports and payments of each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(9) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(i) On or before the 7th day after the end of such delivery period, the minimum class prices for skim milk and butterfat pursuant to § 967.5; and

(ii) On or before the 14th day after the end of such delivery period, the uniform price computed pursuant to § 967.7 and the butterfat differential computed pursuant to § 967.8; and

(10) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

**§ 967.3 Reports, records, and facilities—(a) Delivery period reports of receipts and utilization.** On or before the 9th day after the end of such delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of butterfat and of skim milk contained in all receipts within such delivery period of (i) producer milk, (ii) skim milk and butterfat in any form from any other handler, and (iii) other source milk; and the sources thereof;

(2) The utilization of all receipts reported under subparagraph (1) of this paragraph; and

(3) Such other information with respect to all receipts and utilization as the market administrator may prescribe.

(b) **Other reports.** (1) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(2) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator such handler's producer pay roll for the preceding delivery period, which shall show (1) the total pounds of

milk received from each producer and the average butterfat test of such milk, (ii) the amount of payment to each producer and cooperative association, and (iii) the nature and amount of any deductions and charges involved in the payments referred to in subdivision (ii) of this subparagraph.

(c) **Records and facilities.** Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to (1) the receipts and utilization, in whatever form, of all skim milk and butterfat received; (2) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled; (3) payments to producers and cooperative associations; and (4) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period.

**§ 967.4 Classification—(a) Skim milk and butterfat to be classified.** All skim milk and butterfat, in any form, received within the delivery period by a handler, in producer milk, in other source milk, and from another handler shall be classified by the market administrator pursuant to the following provisions of this section.

(b) **Classes of utilization.** Subject to the conditions set forth in paragraphs (d) and (e) of this section, the skim milk and butterfat described in paragraph (a) of this section shall be classified by the market administrator on the basis of the following classes:

(1) Class I milk shall be all skim milk and butterfat:

(i) Disposed of in fluid form as milk, skim milk, flavored milk, flavored milk drink, or buttermilk (except as provided in subparagraphs (3) (i) and (4) (ii) of this paragraph); and

(ii) Shrinkage on receipts of producer milk computed pursuant to paragraph (c) of this section which is in excess of 2 percent of such receipts and all skim milk and butterfat not specifically accounted for as any item under subdivision (i) of this subparagraph or Class II milk, Class III milk, or Class IV milk.

(2) Class II milk shall be all skim milk and butterfat disposed of as fluid cream (sweet or sour), any mixture of cream and milk (or skim milk), containing not less than 6 percent butterfat, and eggnog.

(3) Class III milk shall be all skim milk and butterfat:

(i) Disposed of in fluid form in bulk as milk, skim milk, buttermilk, or cream to any manufacturer of candy, soup, or bakery products and used in such products;

(ii) Used to produce evaporated or condensed milk, cottage cheese, ice cream, ice cream mix, other frozen desserts and mixes, storage cream; and

(iii) Used to produce a milk product other than any of those specified in subparagraphs (1) (i), (2), or (4) of this paragraph.

(4) Class IV milk shall be all skim milk and butterfat:

(i) Used to produce butter, cheese (excluding cottage cheese), and nonfat dry milk solids;

(ii) Dumped or disposed of for livestock feed as skim milk, flavored milk, flavored milk drink, or buttermilk;

(iii) In actual plant shrinkage of producer milk computed pursuant to paragraph (c) of this section but not in excess of 2 percent thereof; and

(iv) In actual plant shrinkage of other source milk computed pursuant to paragraph (c) of this section.

(c) **Shrinkage.** The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(1) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(2) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to subparagraph (1) of this paragraph between that in producer milk and other source milk.

(d) **Responsibility of handlers and reclassification of milk.** (1) All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(e) **Transfers.** Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk, if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 9th day after the end of the delivery period within which such transaction occurred;

*Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (g) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next lowest-priced available utilization;

(2) As Class I milk if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to a producer-handler;

(3) As Class I milk if transferred or diverted in the form of milk and as Class II milk if so disposed of in the form of cream to a plant not an approved plant unless, (i) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 9th day after the end of the delivery period within which such transaction occurred, (ii) the buyer

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maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, (iii) such buyer's plant had actually used in the use indicated in such statement not less than an equivalent amount of skim milk and butterfat derived by him from milk or cream; *Provided*, That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of skim milk and butterfat so derived in such indicated use, the remaining pounds shall be classified on the basis of the next highest priced available use in accordance with the classes set forth in paragraph (b) of this section;

(f) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, Class III milk, and Class IV milk for such handler.

(g) *Allocation of skim milk and butterfat classified.* The pounds of skim milk and butterfat respectively remaining in each class after the following computations shall be the pounds in each class allocated to producer milk:

(1) Subtract respectively from the pounds of skim milk and butterfat in Class I milk the pounds of skim milk and butterfat in other source milk which is disposed of as Class I milk in bottles on a route outside the marketing area: *Provided*, That the health authority having jurisdiction over the plant from which such distribution is made has granted approval for receiving and processing for fluid distribution both approved milk and other source milk in such plant, the handler maintains adequate accounts and records of and practices complete segregation of producer milk and other source milk used in his Class I milk operations, and that such other source milk is disposed of on a route on which no producer milk is disposed of as Class I milk;

(2) Subtract respectively from the remaining pounds of skim milk and butterfat in each class (other than the pounds of plant shrinkage of skim milk and butterfat pursuant to paragraph (b) (4) (iii) of this section) in series beginning with the lowest priced available use, the pounds of skim milk and butterfat in other source milk excluding that subtracted pursuant to subparagraph (1) of this paragraph;

(3) Subtract respectively from the remaining pounds of skim milk and butterfat in each class the pounds of skim milk and butterfat received from other handlers and assigned to such class pursuant to paragraph (e) of this section; and

(4) Subtract respectively from the remaining pounds of skim milk and butterfat in each class in series beginning with the lowest-priced available use, the pounds by which such pounds of skim milk and butterfat in all classes exceed respectively the pounds of skim milk and butterfat received from producers.

§ 967.5 *Minimum prices—(a) Basic formula prices for skim milk and butterfat.* The basic formula prices for skim milk and butterfat shall be determined by the market administrator for each delivery period in the following manner:

(1) Compute the arithmetical average of the basic (or field) prices per hundred-weight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

*Present Operator and Location*

Borden Co., Black Creek, Wis.  
Borden Co., Greenville, Wis.  
Borden Co., Mt. Pleasant, Mich.  
Borden Co., New London, Wis.  
Borden Co., Orfordville, Wis.  
Carnation Co., Berlin, Wis.  
Carnation Co., Jefferson, Wis.  
Carnation Co., Chilton, Wis.  
Carnation Co., Oconomowoc, Wis.  
Carnation Co., Richland, Wis.  
Carnation Co., Sparta, Mich.  
Pet Milk Co., Belleville, Wis.  
Pet Milk Co., Coopersville, Mich.  
Pet Milk Co., Hudson, Mich.  
Pet Milk Co., New Glarus, Wis.  
Pet Milk Co., Wayland, Mich.  
White House Milk Co., Manitowoc, Wis.  
White House Milk Co., West Bend, Wis.

(2) Compute the price per hundred-weight as follows:

(i) Multiply by six the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by seven, add 30 percent thereof, and multiply by 3.5.

(3) Compute the price per hundred-weight by adding together the plus values resulting under subdivisions (1) and (ii) of this subparagraph.

(i) Subtract 5.0 cents from the arithmetical average of the carlot prices per pound as reported for the delivery period for nonfat dry milk solids (not including that specifically designated animal feed), roller and spray process, f. o. b. Chicago area manufacturing plants, by the Department of Agriculture, multiply by 8.5 and multiply by 0.965, except that if such agency does not publish such prices there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof, delivered at Chicago, Illinois, as published weekly by such agency during the delivery period, and in the latter event the figure "6.0" shall be substituted for "5.0" in the above formula.

(ii) Subtract 2 cents from the arithmetical average of the daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the

delivery period, multiply by 1.2, and multiply by 3.5.

(4) Multiply the highest of the prices resulting from subparagraphs (1), (2), and (3) of this paragraph for the next preceding delivery period by 0.311 (which amount shall be known as the basic formula price per hundred-weight of skim milk): *Provided*, That such price effective for July shall not be less than that effective for the previous month; and such price effective for January shall not be more than that effective for the previous month.

(5) Multiply the highest of the prices resulting from subparagraphs (1), (2), and (3) of this paragraph for the next preceding delivery period by 20.0 (which amount shall be known as the basic formula price per hundredweight of butterfat): *Provided*, That such price effective for July shall not be less than that effective for the previous month, and such price effective for January shall not be more than that effective for the previous month.

(b) *Class I milk and Class II milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class I milk and Class II milk shall be determined by adding the following amounts to the respective basic formula prices for the delivery period:

Delivery period	Skim milk	Butterfat
	Class I and class II milk	Class I and class II milk
May and June.....	\$0.156	\$10.00
September through December.....	.280	18.00
All other months.....	.218	14.00

*Provided*, That the per hundredweight Class II butterfat price shall not be less than the Class III butterfat price determined pursuant to paragraph (c) (5) of this section.

(c) *Class III milk prices.* The minimum prices per hundredweight, to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class III milk, shall be determined as follows:

(1) Compute the arithmetical average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or the Department of Agriculture by the companies listed below:

*Present Operator and Location*

Goshen Milk Condensing Co., Goshen, Indiana.

Litchfield Creamery Co., Warsaw, Indiana.  
New Paris Creamery Co., New Paris, Indiana.

*Provided*, That the price so determined shall not be less than the per hundred-weight price of milk determined pursuant to paragraph (a) (3) of this section.

(2) Compute the percentage that the value of skim milk and butterfat, respectively, as determined pursuant to para-

graph (a) (3) (i) and (a) (3) (ii) of this section, is of their sum.

(3) Multiply the price of milk determined pursuant to subparagraph (1) of this paragraph by the percentages determined for skim milk and butterfat, respectively, pursuant to subparagraph (2) of this paragraph.

(4) Divide the value for skim milk determined pursuant to subparagraph (3) of this paragraph by 0.965, which price shall be the Class III price per hundredweight for skim milk.

(5) Divide the value of butterfat determined pursuant to subparagraph (3) of this paragraph by 0.035, which price shall be the Class III price per hundredweight for butterfat.

(d) *Class IV milk prices.* The minimum prices per hundredweight to be paid by each handler for skim milk and butterfat in producer milk received and classified as Class IV milk shall be determined as follows:

(1) The price per hundredweight of such skim milk shall be the price determined pursuant to paragraph (a) (3) (i) of this section, divided by 0.965.

(2) The price per hundredweight of such butterfat shall be the price determined pursuant to paragraph (a) (3) (ii) of this section, divided by 0.035.

**§ 967.6 Application of provisions—(a) Exempt milk.** Skim milk and butterfat disposed of as Class I and Class II milk on a route in the marketing area shall not be subject to the provisions of this order if (1) such milk is priced under another marketing agreement or order issued pursuant to the Act and (2) the person making such disposition of milk in the marketing area is subject to regulation under such other marketing agreement or order: *Provided*, That the handler making such disposition of milk in the marketing area shall at such time and in such manner as the market administrator may require, make reports to the market administrator which shall be subject to verification by the market administrator.

(b) *Diverted milk.* Producer milk diverted from a handler's plant to an approved plant or to a plant not an approved plant shall be deemed to have been received by the handler for whose account such milk was diverted.

(c) *Producer-handlers.* Sections 967.4, 967.5, 967.7, 967.8, 967.9, and 967.10 shall not apply to a producer-handler.

**§ 967.7 Determination of uniform price—(a) Computation of value of producer milk.** The value of producer milk received during each delivery period by each handler shall be computed by the market administrator by multiplying the pounds of skim milk and butterfat respectively allocated to producer milk in each class pursuant to § 967.4 (g), by the applicable class prices, adding together the resulting amounts, and adding the amounts computed as follows: Multiply the pounds of skim milk and butterfat subtracted from the various classes pursuant to § 967.4 (g) (4) by the respective applicable class prices.

(b) *Computation of uniform price.* For each delivery period, the market administrator shall compute the "uni-

form price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Combine into one total the values computed pursuant to paragraph (a) of this section for all handlers who made the reports pursuant to § 967.3 except those in default in payments required pursuant to § 967.8 (d) for the preceding delivery period;

(2) Subtract, if the weighted average butterfat test of producer milk is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by: Multiplying the amount by which such weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 967.8 (b), and multiply the resulting amount by the hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the amount of unpaid obligations to handlers pursuant to § 967.8 (e) and § 967.11;

(4) Divide by the hundredweight of producer milk; and

(5) Subtract not less than 4 cents nor more than 5 cents (adjusting to the nearest one-tenth cent) from the amount computed under subparagraph (4) of this paragraph.

(c) *Notification to handlers.* On or before the 14th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing (1) the amount and values of his milk in each class and the totals thereof; (2) the applicable minimum class prices and uniform price; (3) the amount owed by him to or the amount due him from the producer-settlement fund, pursuant to § 967.8 (d) or (e); and (4) the amount to be paid by him pursuant to §§ 967.8 (a), 967.9, 967.10, and 967.11.

**§ 967.8 Payment for milk—(a) Time and method of payment.** Each handler shall make payments as follows:

(1) On or before the 18th day after the end of each delivery period, to each producer, except producers for whom payment is made to a cooperative association pursuant to subparagraph (2) of this paragraph, at not less than the uniform price for such delivery period pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section, for all milk received from such producer during such delivery period: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (e) of this section, he may reduce such payments uniformly per hundredweight for all producers by an amount not in excess of the per hundredweight reduction in payment from the market administrator: *And provided further*, That such handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(2) On or before the 15th day after the end of each delivery period, to a cooperative association with respect to

milk caused to be delivered from producers' farms to such handler by such association for its account during such delivery period, not less than the value of skim milk and butterfat in such milk computed at the minimum class prices pursuant to § 967.5. For the purpose of determining the classification of skim milk and butterfat in such milk, such skim milk and butterfat shall be ratably apportioned among the skim milk and butterfat in such handler's Class I milk, Class II milk, Class III milk, and Class IV milk allocated to producer milk pursuant to § 967.4 (g).

(b) *Producer butterfat differential.* In making payments pursuant to paragraph (a) (1) of this section there shall be added to, or subtracted from, the uniform price, for each one-tenth of one percent of butterfat content in such producer milk above or below 3.5 percent, an amount computed by multiplying the average of the daily wholesale prices per pound of 92-score butter at Chicago during the delivery period as reported by the Department of Agriculture, by 0.12 and rounding to the nearest tenth of a cent.

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit payments made by handlers pursuant to paragraph (d) of this section and payments related thereto pursuant to § 967.11 and out of which he shall make all payments to handlers pursuant to paragraph (e) of this section and payments related thereto pursuant to § 967.11.

(d) *Payments to the producer-settlement fund.* On or before the 16th day after the end of each delivery period, each handler shall pay to the market administrator the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.7 (a) minus the amount to be paid to a cooperative association pursuant to paragraph (a) (2) of this section, is greater than the amount to be paid producers pursuant to paragraph (a) (1) of this section: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to paragraph (a) (2) of this section, such cooperative association shall pay to the market administrator, on or before the 16th day after the end of each delivery period, the amount by which the utilization value of such milk is greater than the value computed at the uniform price pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section.

(e) *Payments out of the producer-settlement fund.* On or before the 17th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which the value of producer milk received by such handler during such delivery period pursuant to § 967.7 (a) minus the amount to be paid to a cooperative association pursuant to paragraph (a) (2) of this section is less than the amount to be paid producers pursuant to paragraph (a) (1) of this section, less any unpaid obligation of such handler to the market

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administrator pursuant to paragraph (d) of this section, §§ 967.9, 967.10, and 967.11: *Provided*, That with respect to milk for which a cooperative association receives payment from a handler pursuant to paragraph (a) (2) of this section the market administrator shall pay to such cooperative association, on or before the 17th day after the end of such delivery period, the amount by which the utilization value of such milk is less than the value computed at the uniform price pursuant to § 967.7 (b) adjusted by the producer butterfat differential pursuant to paragraph (b) of this section: *And provided further*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

**§ 967.9 Expense of administration.** As his pro rata share of the expense incurred pursuant to § 967.2 (c) (4) each handler shall pay the market administrator, on or before the 16th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to skim milk and butterfat received within the delivery period, in producer milk (including such handler's own production) and in other source milk (excluding milk which is subject to administrative expense of another Federal order issued pursuant to the act).

**§ 967.10 Marketing service—(a) Marketing service deductions.** Except as set forth to paragraph (b) of this section, each handler, in making payments to producers pursuant to § 967.8 (a) (1), shall make a deduction of 4 cents per hundredweight of milk, or such lesser deduction as the Secretary from time to time may prescribe, with respect to the following:

(1) All milk received from producers (except milk of such handlers' own production) at a plant not operated by a cooperative association; and

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association.

Such deductions shall be paid by the handler to the market administrator on or before the 16th day after the end of each delivery period. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

**(b) Marketing service deduction with respect to members of, or producers marketing through, a cooperative association.** In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefor, to a cooperative association, (2) whose milk is received at a plant not operated by such association,

and (3) for whom the Secretary determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 932.8 (a) (1) the amount per hundredweight on milk authorized by such producer and shall pay over, on or before the 16th day after the end of such delivery period, such deduction to the association entitled to receive it under this paragraph.

**§ 967.11 Adjustments of accounts—(a) Errors in payments.** Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the 5th day after such notice.

**(b) Interest on overdue accounts.** Any unpaid obligation of a handler or of the market administrator pursuant to §§ 967.8, 967.9, 967.10, or paragraph (a) of this section shall bear interest at the rate of one-half of one percent per month, such interest to accrue on the 1st day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

**§ 967.12 Effective time.** The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

**§ 967.13 Suspension or termination—(a) When suspended or terminated.** The Secretary shall, whenever he finds that this order, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this order or any such provision thereof.

**(b) Continuing obligations.** If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

**(c) Liquidation.** Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so desired by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent

is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

**§ 967.14 Agents.** The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

**§ 967.15 Separability of provisions.** If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

[F. R. Doe. 47-10362; Filed, Nov. 24, 1947; 8:53 a. m.]

## [7 CFR, Part 980]

HANDLING OF MILK IN TOPEKA, KANS.,  
MARKETING AREA

## DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904) a public hearing was conducted at Topeka, Kansas, on May 12-16, 1947, pursuant to the notice thereof which was issued on April 23, 1947 (12 F. R. 2654).

Upon the basis of the evidence introduced at such hearing and the record thereof, the Acting Assistant Administrator on September 25, 1947, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in the proceeding. The notice of filing of such recommended decision and opportunity to file written exceptions thereto was published in the *FEDERAL REGISTER* on October 1, 1947 (12 F. R. 6464).

The material issues on the record were (1) whether the handling of milk in the Topeka, Kansas, marketing area is in the current of interstate commerce or burdens, obstructs, or affects interstate commerce, (2) whether an order should be issued to regulate the handling of milk in the Topeka, Kansas, marketing area, and (3) if an order is issued, what its provisions should be. With respect to the last point several questions were developed. These related to (a) the definitions of "marketing area," "handler," "producer," and "approved plant," (b) the classification of milk and milk products, (c) transfers of milk between han-

dlers and between handlers and non-handlers, (d) the level of class prices, (e) seasonal pricing to producers, (f) the amount of the administrative assessment, (g) the amount of the deduction for marketing services, (h) payments to producers, and (i) the administrative provisions common to all orders.

*Rulings on exceptions.* Exceptions were filed by the Beatrice Foods Company to the findings, conclusions, and recommendations of the Acting Assistant Administrator with respect to issues (1) and (2) and to sub-issues (c) and (d) of issue (3).

In arriving at the findings, conclusions, and regulatory provisions set forth in this decision each of these exceptions was carefully considered in conjunction with the record evidence pertaining thereto. The findings, conclusions, and recommendations of the Acting Assistant Administrator relating to issues (1) and (2) and to sub-issues (c) and (d) of issue (3) have been adopted without substantive change and the exceptions thereto are overruled.

No exceptions were filed to the findings, conclusions, and regulatory provisions recommended in the Acting Assistant Administrator's recommended decision on sub-issues (a) (b), (e), (f), (g), (h), and (i) of issue (3). The findings, conclusions, and regulatory provisions so recommended have been adopted in this decision without substantive change.

*Findings and conclusions.* Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that: (1) the handling of milk in the Topeka, Kansas, marketing area is in the current of interstate commerce and burdens, obstructs and affects interstate commerce in the handling of milk and its products.

It is shown by the evidence that any milk received from producers in excess of the market's requirements for Class I and Class II milk is moved to the manufacturing side of handlers' plants or to nearby manufacturing plants. There this milk is intermingled with milk which is received expressly for manufacturing and all or a portion of it is used in the production of butter, cheese, and other dairy products. The evidence shows that a substantial portion of these products are sold outside the State of Kansas. One handler testified that approximately one-half of the butter he produced was sold on the New York market and that a substantial amount of his cheese was sold in Kansas City, Missouri. Another handler testified that butter manufactured by him was sold throughout the entire country and that quantities of other manufactured products were sold outside the State of Kansas. This same handler testified that he received a sizeable volume of butterfat from outside the State of Kansas for manufacture into butter.

While the amount of producer milk available for use in dairy products during the war years was negligible, the record shows that during the last year the unevenness of production resulted in the market being supplied during April 1947 with more than 125 percent of its requirements for Class I and Class II

milk. Therefore, more than 20 percent of the producers' receipts were available for use in manufactured dairy products. During May and June the percentage would be somewhat higher since the record shows that they are the months of peak production.

The largest handler in the market testified that all of his cottage cheese and buttermilk are made from Grade A milk received from producers. He also testified that he operated routes from which cottage cheese and buttermilk were regularly disposed of in the State of Missouri.

The record also shows that within the proposed marketing area are located an Army Air Base and the Winter General Hospital. The latter was operated by the War Department during the war years but is now operated by the Veterans' Administration. Both of these government institutions are being served by Topeka handlers. One handler testified that at the time he served the hospital it purchased between 4,000 and 5,000 pints of milk and approximately 100 quarts of cream per day.

The evidence also shows that whenever producer receipts have been insufficient to fulfill handlers' requirements for Class I and Class II milk, handlers have augmented this supply with milk from manufacturing plants, either operated by themselves or by others. The record clearly shows that these plants are engaged in the manufacture of dairy products for sale in interstate commerce.

It was also testified that these manufacturing plants draw their supplies from the same territory that furnishes Topeka with its fluid supply. In the past year there has been an increase of approximately 100 producers on the Topeka market. Most of these producers shifted to the Topeka market from the manufacturing plants. Thus it is clear that Topeka handlers compete for producers with these manufacturing plants which are engaged in the production of dairy products for sale in interstate commerce.

It is also clear from the evidence that the Topeka market and the Greater Kansas City market (an interstate market regulated by Order No. 13 issued pursuant to the act) compete for supplies and that the Topeka market has a direct effect on the prices received by at least some of the producers supplying the Greater Kansas City market. The evidence shows a substantial intermingling of producers in the area lying between the two markets, and many of the producers so located are in a position to ship their milk to Topeka or to Kansas City. There are two country receiving stations operated by Kansas City handlers located within the Topeka supply area.

The record indicates that there has been some shifting of producers between the two markets, but that the shift has been in both directions. Moreover, the secretary of the cooperative association which represents the majority of the producers in the Greater Kansas City market testified that many of the members of his association might have shifted from Kansas City to Topeka had the association not made an effort to keep

its producers in the Kansas City market by interviewing those who were considering making the shift. This action was taken at the request of Kansas City handlers who feared the loss of the producers in question to the Topeka market.

The record also shows that producers supplying the two Kansas City receiving stations located within the Topeka milkshed have been paid premiums regularly for the past few years. It was testified that these premiums were paid solely to keep these producers from shifting to the Topeka market. This is substantiated by the fact that no premiums have been paid at any of the other Kansas City receiving stations nor at any of the city plants within the Greater Kansas City marketing area.

From the foregoing it is evident that a portion of the milk of Topeka producers crosses state lines in the form of buttermilk, cottage cheese, and other dairy products, and that the handling of milk in the Topeka market directly burdens, obstructs, and affects interstate commerce in milk and its products.

(2) There is need for a marketing agreement and order program to regulate the handling of milk in the Topeka, Kansas, marketing area. Since August 16, 1936, there has been in effect in Topeka a marketing agreement issued by the Secretary under the Agricultural Adjustment Act. Many of the provisions of this agreement are outmoded and the prices provided in it are inadequate in view of current values of milk and dairy products. For some years the agreement has been augmented by private arrangements between the handlers and producers but the signers of the agreement have continued to operate within its framework. While this has served to stabilize the market, producers fear that it could be upset at any time by the refusal of handlers to continue to cooperate.

There are three handlers in the market who started in business after 1936 and who have refused to sign the agreement or to subscribe to supplemental arrangements with producers. These handlers purchase milk from producers at the blended price paid by the handlers who are a party to the agreement. It was alleged without contradiction that these handlers have a much higher percentage of Class I milk than do the other handlers on the market and that they are able to purchase milk for Class I use at a much lower price than other handlers. For the past several years the difference has been insignificant since the market has been extremely short of milk and practically all milk in the pool has been used in Class I resulting in a blended price approximately equal to the Class I price.

Within the past few months, however, there has been a substantial percentage of producer milk being utilized in Class III. As a consequence the blended price in April was 42 cents (almost one cent a quart) below the Class I price. It is therefore obvious that if a handler were able to purchase Class I milk at the blended price he would enjoy a decided advantage over other handlers and could seriously disrupt the market.

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A further factor indicating the desirability of a program for the Topeka market is its proximity to the Greater Kansas City market. The testimony of both producers and handlers indicates that there is a need for keeping the two markets in a proper relationship to each other. Since the Kansas City market is regulated by a marketing order, this can best be accomplished by having a similar regulation in the Topeka market.

(3) From the evidence it appears that the proposed marketing agreement and order which is attached hereto and made a part hereof meets the needs of the Topeka market. There follows a brief discussion of its provisions together with the substantiating data.

(a) *Definitions.* The definitions of the terms "act," "Secretary," and "person" are standard terms common to most orders. Their inclusion is justified on the record and there appears to be no need for a discussion of them.

The marketing area has been defined as Shawnee County, Kansas. A thorough discussion of the problems involved in thus defining the marketing area appears in the record. The evidence shows that the proposed marketing area constitutes the natural market for Topeka handlers, that milk is sold by them throughout the entire county, and that a relatively small percentage of milk is normally sold outside the county by Topeka handlers. There are several suburban communities and government institutions located outside the City of Topeka but within Shawnee County which are served exclusively by Topeka handlers. It appears that the limits of the county represent a natural boundary for the marketing area.

The term "producer" has been defined as anyone who, in conformity with municipal or state regulations for the production of Grade A milk, produces milk which is received at an approved plant of a handler or which is temporarily diverted to an unapproved plant by a handler. The definition would also include anyone producing a comparable quality of milk which was received at a plant supplying Federal institutions within the marketing area.

A proposal made at the hearing would have defined as producers only those persons producing milk in conformity with the health regulations of the City of Topeka. The evidence indicates, however, that the order, to provide equity, should also regulate the handling of all other milk of comparable grade disposed of within the area. The City of Topeka and all the neighboring cities from which milk might be disposed of within the marketing area operate under the United States Public Health Service Standard Ordinance as does the State of Kansas. This ordinance is also the standard used by Federal agencies in purchasing milk for use in government establishments. Therefore, it appears that the proposed definition of producer would include all persons producing milk of a quality comparable to that required under the Topeka ordinance.

Because of the seasonality of milk production, the market receives more milk than it can utilize in Class I and Class II during certain seasons of the year. During the periods of heaviest production

milk is often diverted directly from producers' farms to manufacturing plants in order to eliminate the necessity of first receiving the milk in an approved plant and then transferring it to a manufacturing plant. The person who produces this milk should be considered a producer during the periods when his milk is received at the unapproved plant. The producer definition has been written to include such a person when his milk has been diverted either by the handler who normally receives it or by the cooperative association of which he is a member.

A "handler" has been defined as the operator of an approved plant from which milk is distributed in the marketing area, or which serves as a country station for the assembling of milk to be shipped to a distributing plant. This definition would also include a cooperative association with respect to milk of producers which it handles for its own account.

"Approved plant" has been defined as any plant or portion thereof which has been approved by a health authority for the disposition of Grade 4 milk within the marketing area, or which is supplying milk to a Federal institution within the marketing area.

The terms "handler" and "approved plant" are so closely interrelated that they should be discussed together. Considerable testimony appears in the record concerning whether a person should be considered a handler with respect to his entire local operation, or only with respect to that portion of it which bears health department approval. Since it appears that the advantages resulting from making a person a handler with respect to his entire operation might be more than offset by the extra work entailed, it is proposed that the term be restricted to that portion of the operation which bears health department approval.

The original proposal would have limited a handler to a person who met the approval of the health authorities of the City of Topeka, Kansas. The evidence indicates, however, that the term "handler," like that of "producer," should be broadened to include anyone disposing of a comparable grade of milk within the marketing area. The record further indicates that a cooperative association, even though it does not operate a plant, should be considered a handler with respect to milk which it handles for its own account. As pointed out above, production during certain seasons is greater than the market's requirement for Class I and Class II milk. At such times handlers may refuse to accept milk from certain producers, who, even though their milk were needed later in the year, would be out of the pool unless their milk were received by a handler. In order to keep the milk available to the market it should be included in the pool even when diverted to unapproved plants. While the larger handlers may divert this milk for their own account and thus keep it in the pool, in some instances handlers will turn the milk back to the cooperative association, which must find a market

for it. In such instances this milk would be out of the pool unless the cooperative association were considered a handler with respect to it.

During the short months it may be necessary for a cooperative association to shift milk rather freely between handlers in order to keep all supplied with sufficient milk for their requirements. In such instances, where the milk of a particular producer might conceivably be received at three or four plants during a particular delivery period, it would appear desirable to consider the cooperative association as the handler for such milk rather than to have each of several plants the handler for it during a portion of the delivery period.

The term "producer-handler" would include anyone who is both a producer and a handler and who buys no milk from other producers. Since the order proposes that the milk of such persons be treated differently from that of regular producers, the term has been defined for facility in drafting the subsequent provisions of the order. In order to be classified as a producer-handler, a person must have the entire operation of his business, both the production of the milk and its distribution, as his personal enterprise and at his personal risk.

For administrative facility we have defined the terms "producer milk" and "other source milk." "Producer milk" includes all the milk which would be included in the marketwide pool, and "other source milk" includes all the milk which would be excluded from the pool.

We have also included a definition of "milk product." Many handlers carry a line of packaged products such as malted milk, fancy cheese, powdered mixes, etc., which they purchase in consumer packages and for which they act only as a distributor. Since under a broad interpretation of the term "other source milk," they might be required to report these products, we have proposed that a milk product shall not include a product which is disposed of in its original form without further processing or packaging by the handler. Elimination of such products will result in a saving of time to both the handlers and the market administrator and will in no way affect the computation of the pool.

The "market administrator" has been defined as the person to administer the order. His powers and duties will be discussed below.

The evidence shows that the delivery period should be defined as a calendar month.

The definition of a "cooperative association" is similar to that contained in other marketing orders and is substantiated by the evidence.

(b) *The classification of milk.* From the evidence it appears that the classification of milk should be as follows: Class I milk should include all milk, skim milk, flavored milk, and buttermilk, disposed of for fluid consumption, the milk equivalent of all unaccounted for butterfat in excess of 3 percent of receipts (except receipts from other handlers) and all milk not specifically classified as Class II or Class III milk. Class II milk should include all milk disposed of as cream, cottage cheese, aerated cream, eggnog, and

cream products. Class III milk should include butter, cheese, and other manufactured dairy products, milk sold to wholesale bakeries, etc., all skim milk not specifically classified as Class I or Class II and unaccounted for milk up to 3 percent of receipts (except from other handlers).

We feel that the evidence indicates that buttermilk, flavored milk drinks and bottled skim milk should be in Class I since they must meet the same health requirements as fluid whole milk, and they are competitive with it. The only other items concerning which there was a controversy were aerated cream and eggnog. Both of these products are substitutes for fluid cream, and their sales replace sales of cream. We believe that they should be classified in the same class as fluid cream.

(c) *Transfers of milk.* The rules which are proposed herein for classifying or allocating milk which is transferred between handlers or between a handler and a nonhandler appear justified on the record. No controversy arose with respect to interhandler transfers and no comment appears necessary.

With respect to milk transferred to nonhandlers it is proposed that when moved more than 100 miles it will be Class I if moved in the form of milk and Class II if moved in the form of cream. With respect to milk moved shorter distances it is proposed that milk moved to a manufacturing plant shall be Class III, and that milk moved to a plant which distributes milk and cream shall take the highest use remaining after allocating the top classification to the milk received from farmers at that plant. There would be two exceptions to these rules. One would be in the case of milk which is moved to an unapproved plant from which Class I milk or Class II milk is disposed of in the marketing area, and in this instance producer milk would take the top classification up to the extent of the sale in the marketing area. The other would be in the case of milk moved to an unapproved plant which disposes of Class I or Class II products under Grade A label, and in this case producer milk would be allocated to Class I and Class II to the extent of such Grade A disposition. The evidence shows that some handlers make cottage cheese and buttermilk in their unapproved plants and that these products are sold as Grade A both within and without the area. Since the record shows that the only Grade A milk normally received in the unapproved plant is producer milk which is transferred over there such sales should be allocated to producer milk.

The only objection to the proposed rules was with respect to the classification of milk moved to a plant more than 100 miles from the marketing area. This opposition appeared to be based on the assumption that the definition of approved plant would include a handler's manufacturing plant. The restricted definition of approved plant which is proposed should eliminate any grounds for objection to this proposal.

The proposal further provides that other source milk received by a handler shall be allocated to the lowest class use

in the handler's plant. If such lowest class use in Class I or Class II and producer milk is available at class prices, such handler shall be required to pay into the producer-settlement fund an amount equal to the difference between the Class III price and the price of the class in which such milk was used.

In the original proposal this payment hinged upon whether the cooperative association was able to supply the milk. We feel, however, that such a proposal is too restrictive and places too much responsibility in the hands of the cooperative association. The handlers proposed that, in the event sufficient producer milk was not available to supply their Class I and Class II needs, other source milk be prorated over their entire use. We feel that such a provision might leave the way open to abuse by permitting some handlers to prorate their entire receipts of other source milk during periods when only a very small quantity would be needed to supply their requirements.

(d) *Class prices.* It appears from the record that the class prices in the Topeka market should be fixed so as to maintain a stable relationship between that market and the Greater Kansas City market. Over the past several years this difference has averaged approximately 19 cents per hundredweight for milk testing 3.8 percent butterfat. During all but the last few months of that period, however, Topeka was buying its milk on a straight butterfat basis while the Greater Kansas City market was buying milk on a volume basis with a butterfat differential. Therefore, on milk testing more than 3.8 percent butterfat the difference between the two prices would lessen as the butterfat content of the milk increased. On high testing milk the Topeka price would be higher than the Greater Kansas City prices.

Since the average butterfat content of milk in the Topeka market has always been in excess of 3.8 percent, the actual difference in the two prices probably was not more than 15 cents at the average Topeka test. It follows that with a uniform butterfat differential in both markets the Topeka price should not be allowed to vary more than 15 cents from the Greater Kansas City price. Therefore, we have proposed that the Class I price be fixed 60 cents over the basic price and that the Class II price be fixed 35 cents over the basic price. The Greater Kansas City order provides Class I and Class II prices of 75 cents and 50 cents, respectively, over the basic price.

The basic price on which Class I and Class II prices would be based, would be either the average price paid producers by a specified group of northern condenseries or the price resulting from a formula based on the market values of butter and nonfat dry milk solids. The record indicates that not only would this basic price reflect the general values of dairy products on a nationwide basis, but that, since it is used in the Kansas City order, it is virtually mandatory that it be used in the Topeka market in order to maintain the proper relationship between the prices in the two markets.

The foregoing discussion relates to normal price relationships. However, during recent months the prices of manufactured dairy products, on which the Class I and Class II prices would be based, have fallen rapidly in relation to feed costs and the prices of competing farm commodities such as hogs, beef and grain, especially wheat and corn.

Topeka prices have been maintained in recent months at levels that are higher than those which would have resulted from the formula prices provided in the attached order. The record indicates that prices should be maintained close to recent levels at least until a more normal relationship between dairy products and other farm commodities is restored. It is therefore proposed that minimum prices be fixed through the winter of 1947-1948, which would prevail only during delivery periods when such prices were higher than the formula prices. The Class I price has been fixed at not less than \$4.90 per hundredweight. This is 45 cents per hundredweight, approximately 1 cent per quart, below the price which was in effect last winter. The Class II price has been fixed at not less than \$4.65 per hundredweight. These prices represent an increase of 25 cents per hundredweight over the Class I and Class II prices which prevailed in the Topeka market during the spring months. They appear to be the minimum prices which will maintain production during the coming fall and winter months.

The Class III price has been fixed as the average price paid by three local plants for milk for manufacturing. These plants are the normal outlet for all the surplus milk on the Topeka market. The evidence shows that milk of producers going into manufacturing uses should be priced the same as milk purchased by these plants from farmers who produce milk for manufacturing purposes.

It has been proposed that the butterfat differential to handlers be fixed at  $\frac{1}{3}$  of the Class III price. Since handlers buy milk for manufacturing use on a direct butterfat basis, this is actually the butterfat differential paid for ungraded milk. Excess butterfat in Grade A milk should not be priced to handlers any lower than the price they are willing to pay for ungraded butterfat.

Handlers proposed a special price for Class I milk sold outside the marketing area which would be 23 cents below the regular Class I price. We do not believe that the evidence justifies the inclusion of such a provision. At the present time handlers are supplying this business and paying the Topeka Class I price for their milk. Topeka producers should not be expected to supply fluid milk at a lower cost than applies to the marketing area. The testimony clearly shows that the proposal has not been advanced as a means of disposing of seasonal surplus, but that on the contrary handlers hope to expand their sales permanently over a large area through a reduction in price. It does not appear that sufficient milk will be produced during the fall months to supply enough milk for an expansion

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of this type of business, and if such sales are made producers should receive the marketing area price.

(e) *Seasonal pricing.* The proposed order provides for a plan of seasonal adjustment in producer prices whereby 20 cents per hundredweight would be deducted from the blended price during the months of flush production and the amount withheld would be returned to producers in accordance with their production during the short months. The statistics on the market clearly show the need for some plan to encourage producers to level out their yearly production. For several years now the Topeka market has been very short of milk during the fall months, production averaging only 70 percent of the spring flush. Wide seasonal variation in production presents a problem to both handlers and producers and both groups urged the need for a leveling of seasonal production.

The proposed plan was advanced by producers and their testimony indicates that neither the "base and surplus plan" nor seasonal pricing (the two other methods most commonly used to achieve uniform production) would be as well suited to the needs of the Topeka market as the seasonal "take-out." A further reason for using this plan in the Topeka market is the fact that it is in effect in the Greater Kansas City market. As pointed out above the relationship between these two markets is very close, and in order to maintain the proper balance between the two, the seasonal pricing pattern in each should be uniform.

(f) *The administrative assessment.* It appears that an assessment of 2 cents per hundredweight will be required to defray the cost of administering the order. This is the assessment which is provided in the present marketing agreement. The record indicates that it has proven adequate to cover the cost of administering the agreement. The record further shows that there would be very little difference in cost between the administration of the present agreement and of the proposed order.

(g) *The deduction for marketing services.* The record indicates that the market administrator should check weights and tests of milk from non-member producers and render other marketing service for them. The record shows that a deduction of 3 cents per hundredweight would be needed for this purpose. Experience under the present agreement has shown that 3 cents per hundredweight is the amount needed to defray these costs.

In the case of producers who are members of a qualified cooperative association which is actually performing these services, in lieu of the above deduction, the association check-off would be deducted.

The latter provision is in accordance with the act which specifically exempts from the marketing service provisions of an order, those producers who are members of a qualified cooperative association which is actually performing such services for its members.

(h) *Payments to producers.* The proposed order provides for a market-wide

pool under which all producers supplying the market would receive the same prices regardless of the utilization of the milk by the handler who received their milk. Although the uniform price is computed only once a month, provision is made for payment to producers semi-monthly. Considerable testimony appears in the record with respect to the amount of the mid-delivery period payment. It was variously proposed that this payment be at the previous month's blended price or at the approximate value of the milk. The former appears to present too great a possibility of handler's being required to overpay producers who may leave the market during the delivery period. The approximate value is a vague term and could result in substantial differences in the amount of the payments made by different handlers. After reviewing the whole matter it is proposed that this payment be at the Class III price for the previous period. This would insure uniformity of payment, would provide producers with a substantial payment and yet protect handlers from making overpayments since the Class III price would always be substantially below the blended price.

It appears unnecessary to include in the order a provision with respect to the correction of overpayments to producers. When it can be proven that such overpayments were made through error and were not intended as a premium, handlers would be permitted to correct these overpayments without the inclusion of a specific provision in the order.

It is also proposed that the producer butterfat differential be computed by adding 4 cents to the price of 92-score butter at Chicago and dividing the result by 10. This is the differential being paid in the market at the present time and the evidence indicates that it should be continued.

(i) *Other provisions.* The other provisions of the order, are of a general administrative nature. They define the powers and duties of the market administrator, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making the computations required by the order and provide a plan for liquidation of the order in the event of its suspension or termination. All are substantiated by the record, were unopposed by any parties, and merit no further comment.

4. *General findings and conclusions.* (a) The proposed marketing agreement and the proposed order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act.

(b) The proposed marketing agreement and the proposed order regulate the handling of milk in the same manner as and are applicable only to persons in the respective classes of industrial and commercial activity specified in the proposed marketing agreement upon which the hearing has been held, and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as

determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the proposed marketing agreement and proposed order are such prices as will reflect the aforesaid factors, insures a sufficient quantity of pure and wholesome milk and be in the public interest.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the Topeka, Kansas, Marketing Area" and "Order Regulating the Handling of Milk in the Topeka, Kansas, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the *FEDERAL REGISTER*. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with the decision.

This decision filed at Washington, D. C., this 19th day of November 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

*Order<sup>1</sup> Regulating the Handling of Milk  
in the Topeka, Kansas, Marketing  
Area*

§ 980.0 *Findings*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73rd Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq.; 11 F. R. 7737; 12 F. R. 1159, 4904), a public hearing was held upon a proposed marketing agreement and proposed order regulating the handling of milk in the Topeka, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) This order and all of its terms and conditions will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) This order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) All milk and milk products handled by handlers, as defined herein, are in the current of interstate commerce, or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) *Additional findings.* (1) It is hereby found and proclaimed in connection with the issuance of this order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the prewar period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1919-July 1929, can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1919-July 1929 is the base period to be used in connection with this order in determining the purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will amount to approximately \$4,000 per year; and the prorata share of such expense to be paid by each handler is hereby approved in the maximum amount of 2 cents per hundred-weight on all milk received by such handler from producers during each delivery period.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Topeka, Kansas, marketing area shall be in conformity to and in compliance with the terms and conditions of this order.

**§ 980.1 Definitions.** The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937) 7 U. S. C. 601 et seq.), as amended.

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture authorized to exercise the powers and to perform the duties of the Secretary of Agriculture of the United States.

(c) "Topeka, Kansas, marketing area" hereinafter called "marketing area," means the City of Topeka and all the territory in Shawnee County, Kansas.

(d) "Person" means any individual, partnership, corporation, association or any other business unit.

(e) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at an approved plant: *Provided*, That such milk is (1) produced under a dairy farm permit or rating issued by the health authorities of any municipal or state government for the production of milk to be disposed of as Grade A milk, or (2) acceptable to agencies of the United States Government for fluid consumption in its institutions or bases. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be temporarily diverted by a handler from the farm to an unapproved plant.

(f) "Handler" means (1) any person in his capacity as the operator of an approved plant (i) from which Class I milk or Class II milk is disposed of in the marketing area on wholesale and retail routes (including plant stores) or (ii) which is used only as a receiving station for the assembling or cooling of milk which is shipped to a plant described in subdivision (i) of this subparagraph, or (2) any cooperative association, with respect to the milk of any producer which it causes to be diverted to either an approved or unapproved plant for the account of such cooperative association.

(g) "Approved plant" means any milk plant or portion thereof (1) which is approved by the health authorities of any municipal or state government for the handling of milk for consumption as Grade A milk and from which Class I milk or Class II milk is disposed of within the marketing area, or (2) which is supplying milk or cream to any agency of the United States Government located within the marketing area.

(h) "Producer-handler" means any person who is both a producer and a handler and who receives no milk from other producers: *Provided*, That (1) the maintenance, care and management of the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person in his capacity as a producer, and (2) the processing, packaging and distribution of milk are the personal enterprise of and at the personal risk of such person in his capacity as a handler. A producer who processes and packages milk of his own production shall not be considered a producer-handler if his entire output is disposed of to other handlers who purchase or receive milk in bulk from producers.

(i) "Producer milk" means all milk produced by a producer, other than a producer-handler, which is purchased or received by a handler either directly from such producers or from other handlers.

(j) "Other source milk" means all milk and milk products other than producer milk.

(k) "Milk product" means any product manufactured from milk or milk ingredients except those which are disposed of in the form in which received without further processing or packaging by the handler.

(l) "Market administrator" means the person designated pursuant to § 980.2 as the agency for the administration hereof.

(m) "Delivery period" means calendar month or the portion thereof during which this order is in effect.

(n) "Cooperative association" means any cooperative association of producers which the Secretary determines (1) to have its entire activities under the control of its members and (2) to have and to be exercising full authority in the sale of milk of its members.

**§ 980.2 Market Administrator—(a) Designation.** The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof;

(2) Report to the Secretary complaints of violations of the provisions hereof;

(3) Make rules and regulations to effectuate the terms and provisions hereof; and

(4) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Pay out of the funds provided by § 980.10, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by § 980.9.

(3) Keep such books and records as will clearly reflect the transactions provided for herein and surrender the same to his successor or to such other person as the Secretary may designate;

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 980.3, or (ii) made payments pursuant to § 980.8; and

(5) Promptly verify the information contained in the reports submitted by handlers.

**§ 980.3 Reports of handlers—(a) Periodic reports.** On or before the 5th day after the end of each delivery period, each handler who purchased or received milk from sources other than his own production or other handlers shall, with respect to all producer milk and other source milk which was purchased, received, or produced by such handler during the delivery period, report to the market administrator in the detail and form prescribed by the market administrator as follows:

(1) The receipts at each plant of milk from each producer, the butterfat content, and the number of days on which milk was received from any producer

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who did not deliver milk during the entire delivery period;

(2) The receipts from such handler's own farm production and the butterfat content;

(3) The receipts of milk, cream and milk products from handlers who purchase or receive milk from producers and the butterfat content;

(4) The receipts of other source milk;

(5) The respective quantities of milk and milk products and the butterfat content thereof which were sold, distributed, or used including sales to other handlers for the purpose of classification pursuant to § 980.4.

(6) The sales of Class I and Class II products outside the marketing area; and

(7) Such other information with respect to the use of milk as the market administrator may request.

(b) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period, upon the request of the market administrator, each handler who purchased or received milk from producers shall submit to the market administrator his producer payroll for such delivery period which shall show for each producer: (1) The total pounds of milk delivered and the average butterfat content thereof and (2) the net amount of such handler's payments to such producer with the prices, deductions and charges involved.

(c) *Reports of producer-handlers and handlers whose sole source of supply is from other handlers.* Producer-handlers and handlers whose sole source of supply is from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(d) *Verification of reports and payments.* The market administrator shall verify all reports and payments of each handler by audit of such handler's records and the records of any other handler or person upon whose disposition of milk the classification depends. Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator such records and facilities as will enable the market administrator to:

(1) Verify the receipts and disposition of all milk and milk products and in the case of errors or omissions, ascertain the correct figures;

(2) Weigh, sample and test for butterfat content the milk purchased or received from producers and any product of milk upon which classification depends; and

(3) Verify the payments to producers prescribed in § 980.8.

§ 980.4 *Classification of milk—(a) Milk to be classified.* All milk and milk products purchased or received by each handler shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraph (c) of this section, the classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk and skim milk disposed of for consumption as milk, skim milk, buttermilk, flavored milk, and milk drinks, and unaccounted for butterfat in excess of 3 percent of the total receipts of butterfat (except receipts from other handlers) converted to a 3.8 percent milk equivalent, and all milk not classified as Class II milk or Class III milk pursuant to subparagraphs (2) and (3) of this paragraph.

(2) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream other than for use in products specified in subparagraph (3) of this paragraph, cottage cheese, products sold or disposed of in the form of cream testing less than 18 percent butterfat, aerated cream and eggnog.

(3) Class III milk shall be all milk used to produce butter, cheese (other than cottage cheese), evaporated milk, condensed milk, ice cream, ice cream mix and powdered milk; disposed of as livestock feed; used for starter churning, wholesale baking and candy making purposes; the milk equivalent of butterfat accounted for as loss in products where the salvage of fat is impossible; and the milk equivalent of unaccounted for butterfat not in excess of 3 percent of the total receipts of butterfat other than receipts from other handlers.

(c) *Transfers of milk.* (1) Milk, skim milk or cream moved in fluid form from an approved plant to an unapproved plant located more than 100 miles from the approved plant where such milk was received from producers shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream.

(2) Milk, skim milk, or cream which is moved from an approved plant to an unapproved plant from which any milk, skim milk, or cream is disposed of as Class I or Class II milk within the marketing area shall be classified as Class I or Class II to the extent of such disposition.

(3) Milk, skim milk or cream which is moved from an approved plant to an unapproved plant from which any milk, skim milk, or cream is disposed of as a Class I or Class II product under a Grade A label shall be classified as Class I or Class II to the extent of such disposition.

(4) Except as provided in subparagraphs (2) and (3) of this paragraph, milk moved as milk or skim milk from an approved plant to an unapproved plant which is located less than 100 miles from the approved plant, and from which fluid milk is distributed shall be Class I unless all the following conditions are met: (i) the market administrator is permitted to verify the records of such unapproved plant; (ii) the receipts of producer milk at the approved plant are greater than the total sales of Class I and Class II milk by the handler in the marketing area; and (iii) milk is received at the unapproved plant from dairy farmers.

If all the above conditions are met the market administrator shall classify such milk as reported by the handler subject to reclassification upon verification as follows: (a) Determine the use of all milk and milk products at such unapproved plant, and (b) allocate the milk moved

from the approved plant to the highest use remaining after subtracting in series beginning with the highest use classification the receipts of milk at the unapproved plant direct from dairy farmers.

(5) Except as provided in subparagraphs (2) and (3) of this paragraph, milk moved as cream from an approved plant to an unapproved plant which is located less than 100 miles from the approved plant, and from which fluid cream is distributed shall be Class II unless all of the following conditions are met: (i) the market administrator is permitted to verify the records of such unapproved plant; (ii) the receipts of producer milk at the approved plant are greater than the total sales of Class I and Class II milk by the handler in the marketing area; and (iii) milk is received at the unapproved plant from dairy farmers.

If all of the above conditions are met, the market administrator shall classify such milk as reported by the handler subject to reclassification upon verification as follows: (a) Determine the use of all milk and milk products at such unapproved plant; and (b) allocate the milk moved from the approved plant to the highest use remaining after subtracting in series beginning with the highest use classification the receipts of milk at the unapproved plant direct from dairy farmers.

(6) Except as provided in subparagraphs (1) and (2) of this paragraph, milk, skim milk and cream moved from an approved plant to an unapproved plant which does not distribute fluid milk or cream shall be Class III milk.

(7) Any milk moved from an approved plant to an approved plant of another handler who purchases or receives milk from producers, shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream, unless utilization in another class is indicated in writing by both the seller and the buyer on or before the 5th day after the end of the delivery period, but in no event shall the amount classified in any class exceed the total use in such class by the receiving handler: *Provided*, That if either or both handlers have purchased other source milk such milk so sold or disposed of shall be classified at both plants so as to return the highest class utilization to producer milk.

(8) Milk sold or disposed of by a handler who purchases or receives milk from producers to a producer-handler or to a handler who purchases or receives no milk from producers shall be Class I if disposed of in the form of milk or skim milk, and Class II if disposed of in the form of cream.

(d) *Responsibility of handlers in establishing the classification of milk.* In establishing the classification as required in paragraph (b) of this section of any milk received by a handler from producers, the burden rests upon the handler who received the milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

(e) *The allocation of other source milk.* Other source milk purchased or received by a handler who purchases or

receives milk from producers shall be allocated to Class III except that other source milk may be allocated to Class II to the extent that Class II milk exceeds the amount of all producer milk classified as Class II milk, and other source milk may be allocated to Class I only to the extent that the total amount of the Class I milk of the handler exceeds the total amount of producer milk received by such handler.

(f) *Computation of milk in each class.* For each delivery period each handler shall compute, in the manner and on forms prescribed by the market administrator the amount of milk in each class as defined in paragraph (b) of this section, as follows:

(1) Determine the total pounds of milk received as follows: Add together the total pounds of milk received from (i) producers, (ii) own farm production, (iii) other handlers, and (iv) other sources.

(2) Determine the total pounds of butterfat received as follows: (i) Multiply by its average butterfat test the weight of the milk received from (a) producers, (b) own farm production, (c) other handlers, and (d) other sources, and (ii) add together the resulting amounts.

(3) Determine the total pounds of milk in Class I as follows: (i) Convert to pounds the quantity of Class I milk on the basis of 2.15 pounds per quart, (ii) subtract the weight of any flavoring materials included, (iii) multiply the result by the average butterfat test of such milk, and (iv) if the quantity of butterfat so computed, when added to the pounds of butterfat in Class II milk and Class III milk, computed pursuant to subdivision (ii) of subparagraph (4) and subdivision (iii) of subparagraph (5) of this paragraph, is less than the total pounds of butterfat received computed in accordance with subparagraph (2) of this paragraph, an amount equal to the difference shall be divided by 0.038 and added to the quantity of milk determined pursuant to subdivisions (i) and (ii) of this subparagraph.

(4) Determine the total pounds of milk in Class II as follows: (i) Multiply the actual weight of each of the several products of Class II milk by its average butterfat test, (ii) add together the resulting amounts, and (iii) divide the result obtained in subdivision (ii) of this subparagraph by 0.038.

(5) Determine the total pounds of milk in Class III as follows: (i) Multiply the actual weight of each of the several products of Class III by its average butterfat content; (ii) add together the resulting amounts; (iii) add the amount of butterfat allowed as plant shrinkage pursuant to subparagraph (6) of this paragraph; and (iv) divide the resulting sum by 0.038.

(6) The amount of butterfat to be allowed as plant shrinkage shall be the smaller of the following amounts: (i) 3 percent of the total receipts of butterfat by the handler, exclusive of receipts from other handlers, or (ii) the amount, if any, by which the sum of the pounds of butterfat computed pursuant to subdivision (iii) of subparagraph (3), subdivision (ii) of subparagraph (4), and

subdivision (ii) of subparagraph (5) of this paragraph, is less than the total receipts of butterfat by the handler.

(7) Determine the classification of milk received from producers as follows: (i) Subtract from the total pounds of milk in each class the pounds of other source milk allocated to such class pursuant to paragraph (e) of this section, and (ii) subtract from the remaining pounds of milk in each class the pounds of producer milk which were received from other handlers and used in such class.

(g) *Reconciliation of utilization of milk by classes with receipts of milk from producers.* In the event of a difference between the total quantity of milk utilized in the several classes as computed pursuant to subparagraph (7) of paragraph (f) of this section and the quantity of milk received from producers, except for excess milk or milk equivalent of butterfat pursuant to paragraph (c) of § 980.6 such difference shall be reconciled as follows:

(1) If the total utilization of milk in the various classes for a handler, as computed pursuant to subparagraph (7) of paragraph (f) of this section is less than the receipts of milk from producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

(2) If the total utilization of milk in the various classes for any handler, as computed pursuant to subparagraph (7) of paragraph (f) of this section, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk for such handler by subtracting in series beginning with the lowest class use of such handler an amount equal to the difference between the receipts of milk from producers and the total utilization of milk by classes for such handler.

§ 980.5 *Minimum prices*—(a) *Class prices.* Subject to the differential set forth in paragraph (c) of this section, each handler shall pay producers at the time and in the manner set forth in § 980.8, not less than the following prices for milk purchased or received from them:

(1) *Class I milk.* The price per hundredweight for Class I milk during each delivery period shall be the price determined pursuant to paragraph (b) of this section, plus 60 cents: *Provided*, That during any delivery period prior to April 1, 1948, the price shall be the price pursuant to paragraph (b) of this section plus 60 cents or \$4.90, whichever is higher.

(2) *Class II milk.* The price per hundredweight for Class II milk during each delivery period shall be the price determined pursuant to paragraph (b) of this section plus 35 cents: *Provided*, That during any delivery period prior to April 1, 1948, the price shall be the price pursuant to paragraph (b) of this section plus 35 cents or \$4.85, whichever is higher.

(3) *Class III milk.* The price per hundredweight for Class III milk during

each delivery period shall be the average price ascertained by the market administrator to have been paid or to be paid for ungraded milk of 3.8 percent butterfat content received during such delivery period at the following plants: The Jensen Creamery Company at its plant at Topeka, Kansas, the Beatrice Foods Company at its plant at Topeka, Kansas, and the Meyer Sanitary Milk Company at its plant at Valley Falls, Kansas.

(b) *Basic formula price to be used in determining Class I and Class II prices.* The basic formula price to be used in determining the Class I and Class II prices shall be the higher of the prices calculated pursuant to subparagraphs (1) or (2) of this paragraph.

(1) The arithmetical average of the prices per hundredweight reported to the United States Department of Agriculture as being paid all farmers for milk of 3.5 percent butterfat content, received during the immediately preceding delivery period at the following plants and places, divided by 3.5 and multiplied by 3.8:

#### *Company and Location*

Borden Co., Mt. Pleasant, Mich.  
Carnation Co., Sparta, Mich.  
Pet Milk Co., Hudson, Mich.  
Pet Milk Co., Wayland, Mich.  
Pet Milk Co., Coopersville, Mich.  
Borden Co., Greenville, Wis.  
Borden Co., Black Creek, Wis.  
Borden Co., Orfordville, Wis.  
Carnation Co., Chilton, Wis.  
Carnation Co., Berlin, Wis.  
Carnation Co., Richland Center, Wis.  
Carnation Co., Oconomowoc, Wis.  
Carnation Co., Jefferson, Wis.  
Pet Milk Co., New Glarus, Wis.  
Pet Milk Co., Belleville, Wis.  
Borden Co., New London, Wis.  
White House Milk Co., Manitowoc, Wis.  
White House Milk Co., West Bend, Wis.

(2) The price calculated by the market administrator as follows: (i) Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the immediately preceding delivery period, and add 20 percent, and (ii) add 3½ cents for each full one-half cent that the price of nonfat dry milk solids suitable for human consumption is above 5½ cents per pound, or subtract 3½ cents for each full one-half cent that the price of such nonfat dry milk solids is below 5½ cents per pound. The price per pound of nonfat dry milk solids to be used shall be the arithmetical average of the carlot prices, both spray and roller process, suitable for human consumption, f. o. b. manufacturing plants in the Chicago area, as reported by the United States Department of Agriculture for the immediately preceding delivery period, including in such average, the quotations for any part of the second preceding delivery period which were not published and available for the determination of the price of such nonfat dry milk solids for the previous delivery period. In the event the United States Department of Agriculture does not publish carlot prices for nonfat dry milk solids suitable for human consumption, f. o. b. manufacturing plants, the average of the carlot prices for nonfat dry milk solids suitable for human consumption delivered at Chi-

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cago shall be used, and  $3\frac{1}{2}$  cents shall be added or subtracted for each full one-half cent that the latter price is above or below  $7\frac{1}{2}$  cents per pound.

(c) *Butterfat differential.* If the average butterfat content of milk purchased or received from producers by any handler during any delivery period is more or less than 3.8 percent, there shall be added or subtracted per hundredweight of such milk for each one-tenth of 1 percent above or below 3.8 percent an amount equal to the Class III price for such delivery period, divided by 38.

§ 980.6 *Application of provisions.* (a) The provisions of §§ 980.4, 980.5, 980.7, 980.8, 980.9, 980.10, 980.11, 980.12, and 980.13 shall not apply to a producer-handler or to a handler whose sole source of supply is from other handlers.

(b) If a handler has purchased or received other source milk the market administrator, in determining the net pool obligation of the handler pursuant to paragraph (a) of § 980.7 shall consider such milk as Class III milk. If the receiving handler sells or disposes of such milk for other than Class III purposes, the market administrator shall add an amount equal to the difference between (1) the value of such milk according to its utilization by the handler, and (2) the value at the Class III price. This additional payment shall not apply if the market administrator determines that such other source milk was used in Class I and Class II only to the extent that producer milk was not available to the handler at the class prices provided pursuant to subparagraphs (1) and (2) of paragraph (a) of § 980.5.

(c) If a handler, after subtracting receipts from other handlers and receipts of other source milk has disposed of milk or butterfat in excess of the milk or butterfat which on the basis of his reports, has been credited to his producers as having been delivered by them the market administrator, in determining the net pool obligation of the handler pursuant to paragraph (a) of § 980.7 shall add an amount equal to the value of such milk or butterfat according to its utilization by the handler.

(d) Milk which is caused to be diverted to a handler directly from producers' farms to an approved plant of another handler for not more than 15 days during any delivery period shall be considered an interhandler transfer of milk, and shall be considered as having been received by the handler who caused the milk to be diverted.

(e) In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I and Class II milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this order shall not apply except as follows:

(1) The handler shall, with respect to his total receipts and utilization of milk, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with the provisions of paragraph (d) of § 980.3.

(2) If the prices which such handler is required to pay under the other order to which he is subject for milk which would be classified as Class I or Class II milk under this order, are less than the respective prices provided pursuant to subparagraphs (1) and (2) of paragraph (a) of § 980.5, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all milk disposed of as Class I milk or Class II milk within the marketing area) an amount equal to the difference between the value of such milk as computed pursuant to subparagraphs (1) and (2) of paragraph (a) of § 980.5, and its value as determined pursuant to the other order to which he is subject.

§ 980.7 *Determination of uniform price to producers—(a) Net pool obligation of handlers.* The net pool obligation of each handler for milk received during each delivery period shall be a sum of money computed by the market administrator as follows:

(1) Multiply the pounds of milk in each class computed pursuant to § 980.4 by the class prices set forth in § 980.5 and add together the resulting values;

(2) Add, if the average butterfat content of all milk purchased or received from producers is more than 3.8 percent and deduct if the average butterfat content of all milk purchased or received from producers is less than 3.8 percent, an amount equal to the total value of the butterfat differential applicable pursuant to paragraph (c) of § 980.5; and

(3) Add an amount equal to the total values pursuant to paragraphs (b) and (c) of § 980.6.

(b) *Computation and announcement of the uniform price.* The market administrator shall compute and announce the uniform price per hundredweight for milk purchased or received from producers during each delivery period in the following manner:

(1) Combine into one total the net pool obligations computed pursuant to paragraph (a) of this section of all handlers who made the reports prescribed in § 980.3 and who made the payments prescribed in § 980.8 for the previous delivery period;

(2) For each of the delivery periods of May, June, and July subtract an amount equal to 20 cents per hundredweight of the total amount of milk received by handlers from producers and included in these computations to be retained in the producer-settlement fund for the purposes specified in subparagraph (2) of paragraph (f) of § 980.8;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Deduct if the average butterfat content of all milk purchased or received from producers is more than 3.8 percent, and add, if the average butterfat content of all milk purchased or received from producers is less than 3.8 percent, the total value of the butterfat differential applicable pursuant to paragraph (c) of § 980.8;

(5) Divide by a figure equal to the total hundredweight of milk received by handlers from producers and included in these computations;

(6) Subtract from the figure computed pursuant to subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for the milk of producers containing 3.8 percent butterfat; and

(7) On or before the 8th day after the end of such delivery period, mail to all handlers (i) such of these computations as do not disclose information confidential pursuant to the act; (ii) the uniform price per hundredweight computed pursuant to subparagraph (6) of this paragraph; (iii) the prices for Class I milk, Class II milk and Class III milk; and (iv) the butterfat differentials computed pursuant to paragraph (c) of § 980.5 and paragraph (c) of § 980.8.

§ 980.8 *Payments for milk—(a) Time and method of payment.* On or before the 12th day after the end of each delivery period, each handler, after deducting the amount of the payment made pursuant to paragraph (b) of this section, and subject to the differential set forth in paragraph (c) of this section, shall make payment to producers at the uniform price per hundredweight computed pursuant to paragraph (b) of § 980.7 for the total quantity of milk received from producers: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) *Half-delivery period payments.* On or before the 25th day of each delivery period, each handler shall make payment to each producer for milk received from him during the first 15 days of the delivery period at not less than the Class III price for the previous delivery period: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(c) *Butterfat differential.* If during the delivery period, any handler has purchased or received from any producer milk having an average butterfat content other than 3.8 percent, such handler, in making the payments prescribed in paragraph (a) of this section, shall add to the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.8 percent not less than, or shall deduct from the uniform price for each one-tenth of 1 percent that such average butterfat content is below 3.8 percent not more than an amount computed by the market administrator as follows: add 4

cents to the average price of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and divide the resulting sum by 10.

(d) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (e) and (g) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (f) and (g) of this section: *Provided*, That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each delivery period, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum required to be paid producers by such handler pursuant to this section and shall enter such amount on such handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

(e) *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period, each handler shall make full payment to the market administrator of any pool debit balance shown on the account rendered pursuant to paragraph (d) of this section from such delivery period.

(f) *Payments out of the producer-settlement fund.* (1) On or before the 11th day after the end of each delivery period, the market administrator shall pay to each handler the pool credit balance shown on the account rendered pursuant to paragraph (d) of this section for such delivery period, less any unpaid obligations of the handler. If at such time the balance in the producer-settlement fund is insufficient to make payment pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler, who, on the 12th day after the end of each delivery period has not received the balance of the payment due him from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his total payments uniformly to all producers by not more than the amount of the reduction in payments from the producer-settlement fund. Such handler shall complete such payments not later than the time of making payments to producers next following after receipt of the balance from the market administrator. Nothing in this paragraph shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

(2) On or before the 15th day after the end of each of the delivery periods of October, November and December, the market administrator shall pay out of the producer-settlement fund to each producer an amount computed as fol-

lows: divide one-third of the total amount held pursuant to subparagraph (2) of paragraph (b) of § 980.7 by the hundredweight of producer milk received during the delivery period involved (October, November or December as above) and apply the resulting amount per hundredweight to the milk of each producer for such delivery period: *Provided*, That payment under this subsection due any producer who has given authority to a cooperative association which is qualified pursuant to paragraph (b) of § 980.9 to receive payments for his milk shall be made to such cooperative association if such cooperative association requests receipt of such payment.

(g) *Adjustment of errors in payment.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (e) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (f) of this section, the market administrator shall, within 5 days, make such payment to such handler or offset any such payment due any handler against payments due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer, for milk purchased or received by such handler discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payments to producers next following such disclosure.

(h) *Statements to producers.* In making payments to producers as prescribed in paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer which shall show:

- (1) The delivery period and the identity of the handler and of the producer;
- (2) The total pounds of milk delivered by the producer and the average butterfat test thereof, and the pounds per shipment if such information is not furnished to the producer each day;
- (3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (c) of this section;
- (4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;
- (5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 980.9 together with a description of the respective deductions; and
- (6) The net amount of payment to the producer.

§ 980.9 *Marketing service—(a) Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct 3 cents

per hundredweight from the payments made to each producer other than himself pursuant to paragraph (a) of § 980.8 with respect to all milk of each producer purchased or received by such handler during the delivery period and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such monies shall be expended by the market administrator for market information to, and for the verification of weights, sampling and testing of milk received from said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Voistead Act," is actually performing the services set forth in paragraph (a) of this section, each handler shall make the deductions from the payments to be made pursuant to paragraph (a) of § 980.8 which are authorized by such producers, and, on or before the 12th day after the end of each delivery period, pay such deductions to the market administrator for the account of the association of which such producers are members.

§ 980.10 *Expense of administration—(a) Payments by handlers.* As his prorata share of the expense of administration hereof, each handler who purchased or received milk from producers, with respect to all milk purchased or received from producers during the delivery period, shall pay to the market administrator, on or before the 12th day after the end of such delivery period, 2 cents per hundredweight or such lesser amount as the Secretary may from time to time prescribe.

§ 980.11 *Effective time, suspension or termination—(a) Effective time.* The provisions hereof, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary may suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which require further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

## PROPOSED RULE MAKING

(1) The market administrator, or such other person as the Secretary may designate, shall (i) continue in such capacity until removed by the Secretary, (ii) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (iii) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 980.12 *Separability of provisions.* If any provisions hereof, or its application

to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 980.13 *Agents.* The Secretary may, by designation in writing name any officer or employee of the United States, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

[F. R. Doc. 47-10360; Filed, Nov. 24, 1947; 8:52 a. m.]

## CIVIL AERONAUTICS BOARD

[14 CFR, Part 292]

## CLASSIFICATION, EXEMPTION AND REGULATION OF NONCERTIFIED INDIRECT CARGO CARRIERS

## SUPPLEMENTAL NOTICE OF PROPOSED RULE MAKING AND HEARING

By notice dated October 15, 1947 (Economic Regulations Draft Release No. 22), published on October 29, 1947 at 12 F. R. 7011, the Board gave notice that it has under consideration the proposed amendment of Part 292 of the Economic Regulations (14 CFR 292) by adding thereto a new § 292.6 establishing a classification of "Noncertified Indirect Cargo Carriers". Reference is made to said notice for the terms of the proposed rule and further explanation thereof.

Copies of Draft Release No. 22 may be obtained from the Secretary, Civil Aeronautics Board, Washington 25, D. C.

The Board having received requests which appear to warrant it, notice is hereby given that a public hearing will be held before the Civil Aeronautics Board on December 8, 1947, at 10:00 a. m. (standard time) in Room 5042, Department of Commerce Building, Washington, D. C., at which interested persons may present oral argument with respect to the proposed rule. Those desiring to be heard are requested to inform F. W. Brown, Chief Hearing Examiner, Civil Aeronautics Board, in advance of the hearing. Each speaker will be limited to twenty minutes, unless special permission is granted pursuant to written request submitted to Mr. Brown prior to December 5, 1947, stating the amount of time desired and the persons officially represented.

Such oral presentation may be in addition to or in lieu of written submission pursuant to the previous notice (Draft Release No. 22) which is hereby amended to provide that all relevant material and communications received on or before December 10, 1947, will be considered by the Board before taking final action on the proposed rule.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10389; Filed, Nov. 24, 1947; 9:00 a. m.]

## NOTICES

## TREASURY DEPARTMENT

Fiscal Service: Bureau of the  
Public Debt

[1947 Dept. Circular 819]

1½ PERCENT TREASURY NOTES OF SERIES  
A-1949

## OFFERING OF NOTES

NOVEMBER 19, 1947.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions from the people of the United States for notes of the United States, designated 1½ percent Treasury Notes of Series A-1949, in exchange for ½ percent Treasury Certificates of Indebtedness of Series L-1947, maturing December 1, 1947, or 2 percent Treasury Bonds of 1947, maturing December 15, 1947. Exchanges will be made par for par in the case of the maturing certificates, and at par with an adjustment of interest as of December 15, 1947, in the case of the maturing bonds.

II. *Description of notes.* 1. The notes will be dated December 1, 1947, and will bear interest from that date at the rate of 1½ percent per annum, payable with the principal at maturity on January 1,

1949. They will not be subject to call for redemption prior to maturity.

2. The income derived from the notes shall be subject to all taxes, now or hereafter imposed under the Internal Revenue Code, or laws amendatory or supplementary thereto. The notes shall be subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000 and \$1,000,000. The notes will not be issued in registered form.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States notes.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve

Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, and to close the books as to any or all subscriptions at any time without notice; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment for notes allotted hereunder must be made on or before December 1, 1947, or on later allotment. Payment of the principal amount may be made only in Treasury Certificates of Indebtedness of Series L-1947, maturing December 1, 1947, or in Treasury Bonds of 1947, maturing December 15, 1947, which will be accepted at par and should accompany the subscription. The full year's interest on the certificates surrendered will be paid to the subscriber following acceptance of the certificates. In the case of the maturing bonds in coupon form, payment of accrued interest on the new notes from December 1, 1947 to December 15, 1947 (\$0.43151 per \$1,000) should be made when the subscription is tendered. In the case of maturing registered bonds,

the accrued interest will be deducted from the amount of the check which will be issued in payment of final interest on the bonds surrendered. Final interest due December 15 on bonds surrendered will be paid, in the case of coupon bonds, by payment of December 15, 1947 coupons, which should be detached by holders before presentation of the bonds, and in the case of registered bonds, by checks drawn in accordance with the assignments on the bonds surrendered.

*V. Assignment of registered bonds.* 1. Treasury Bonds of 1947 in registered form tendered in payment for notes offered hereunder should be assigned by the registered payees or assignees thereof to "The Secretary of the Treasury for exchange for Treasury Notes of Series A-1949 to be delivered to \_\_\_\_\_", in accordance with the general regulations of the Treasury Department governing assignments for transfer or exchange, and hereafter should be presented and surrendered with the subscription to a Federal Reserve Bank or Branch or to the Treasury Department, Division of Loans and Currency, Washington, D. C. The bonds must be delivered at the expense and risk of the holder.

*VI. General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payments for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN W. SNYDER,  
Secretary of the Treasury.

[F. R. Doc. 47-10377; Filed, Nov. 24, 1947;  
8:56 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 2021]

ALASKA AIRLINES, INC.

### NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, of Alaska Airlines, Inc. over route AAM-232, Anchorage-Fairbanks, and routes AAM-214 and AAM-148, Part I, Anchorage-Unalakleet-Nome; and the order to show cause therein, published by the Board, November 17, 1947, (Serial No. E-985).

Notice is hereby given that hearing in the above-entitled matter is assigned to be held November 28, 1947, at 10:00 a. m. (eastern standard time), in Room 1508, Department of Commerce Building, 14th and E Streets, N. W., Washington, D. C., before Examiner F. A. Law, Jr.

Dated at Washington, D. C., November 21, 1947.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 47-10395; Filed, Nov. 24, 1947;  
8:48 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. E-6104]

SOUTH CAROLINA ELECTRIC & GAS CO.

### NOTICE OF APPLICATION

NOVEMBER 19, 1947.

Notice is hereby given that on November 19, 1947, an application was filed, pursuant to section 203 of the Federal Power Act, by South Carolina Electric & Gas Company, a corporation organized under the laws of the State of South Carolina and doing business in said State with its principal business office at Columbia, South Carolina, seeking an order authorizing the acquisition of all the outstanding common stock (which is and will be all the outstanding stock of any class) of South Carolina Power Company from the Commonwealth and Southern Corporation (Del.), the parent of South Carolina Power Company, for a consideration stated in the application to be the sum of \$10,200,000 in cash, subject to certain adjustments; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 22d day of December, 1947, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 47-10359; Filed, Nov. 24, 1947;  
8:51 a. m.]

[Project No. 271]

ARKANSAS POWER & LIGHT CO.

NOTICE OF ORDER DETERMINING ACTUAL LEGITIMATE ORIGINAL COST AND PRESCRIBING ACCOUNTING THEREFOR

NOVEMBER 20, 1947.

Notice is hereby given that, on November 19, 1947, the Federal Power Commission issued its order entered November 17, 1947, determining actual legitimate original cost and prescribing accounting therefor in the above-designated matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 47-10357; Filed, Nov. 24, 1947;  
8:51 a. m.]

[Project No. 1888]

METROPOLITAN EDISON CO.

NOTICE OF OPINION NO. 160 AND ORDER

NOVEMBER 20, 1947.

Notice is hereby given that, on November 19, 1947, the Federal Power Commiss-

sion issued its Opinion No. 160 and order, entered November 17, 1947, granting in part and denying in part application for amendment of order authorizing issuance of license in the above-designated matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 47-10358; Filed, Nov. 24, 1947;  
8:51 a. m.]

[Docket Nos. G-321, G-547]

NEW MEXICO EASTERN GAS CO. AND SOUTHERN UNION GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NOVEMBER 19, 1947.

Notice is hereby given that, on November 18, 1947, the Federal Power Commission issued its order entered November 17, 1947, issuing certificate of public convenience and necessity in the above-designated matters.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 47-10337; Filed, Nov. 21, 1947;  
8:48 a. m.]

[Docket No. IT-5587]

SENECA NATION OF INDIANS

NOTICE OF ORDER DISMISSING PETITION

NOVEMBER 19, 1947.

Notice is hereby given that, on November 18, 1947, the Federal Power Commission issued its order entered November 17, 1947, dismissing petition in the above-designated matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 47-10336; Filed, Nov. 21, 1947;  
8:48 a. m.]

## INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 349]

RECONSIGNMENT OF POTATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., November 14, 1947, by National Produce Co., of car WFE 62654, potatoes, now on the CNW, Wood St., to Peoria, Ill.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice

## NOTICES

of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 14th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10367; Filed, Nov. 24, 1947;  
8:54 a. m.]

[S. O. 396, Special Permit 350]

**RECONSIGNMENT OF CELERY AT KANSAS CITY, MO.**

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Kansas City, Mo., November 17, 1947, by Sanginecci Fruit Co., of car IC 50086, celery, now on the Missouri Pacific, to Chicago, Ill.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 17th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10368; Filed, Nov. 24, 1947;  
8:54 a. m.]

[S. O. 396, Special Permit 351]

**RECONSIGNMENT OF APPLES AT CHICAGO, ILL.**

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., November 17, 1947, by Jack Carl Co., of car PFE 9098, apples, now on the Chicago Produce Terminal to New York City.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent

of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 17th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10369; Filed, Nov. 24, 1947;  
8:54 a. m.]

[S. O. 396, Special Permit 350]

**RECONSIGNMENT OF LETTUCE AT PHILADELPHIA, PA.**

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Philadelphia, Pa., November 18, 1947, by H. Rothstein & Son, of car PFE 96650, lettuce, now on the PRR to Wm. Shapiro, New York City (PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10370; Filed, Nov. 24, 1947;  
8:55 a. m.]

[S. O. 396, Special Permit 351]

**RECONSIGNMENT OF CELERY AT CHICAGO, ILL.**

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., November 18, 1947, by Harry Finerman Co., of car URT 9789, celery, now on the CB&Q Racine Ave. to Cleveland, Ohio.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 18th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10371; Filed, Nov. 24, 1947;  
8:55 a. m.]

[S. O. 396, Special Permit 354]

**RECONSIGNMENT OF CELERY AT ST. LOUIS, MO.**

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at St. Louis, Mo., November 19, 1947, by Forest L. Boyer, of car ART 22204, celery, now on the Missouri Pacific to Justman Frankenthal Co., Chicago, Ill. (Wabash).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 19th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10372; Filed, Nov. 24, 1947;  
8:55 a. m.]

[S. O. 787, Special Permit 4]

**TURNOVER OF CARS TO M. DUNN AT DETROIT, MICH.**

Pursuant to the authority vested in me by paragraph (c) of the first ordering paragraph of Service Order No. 787 (12 F. R. 7361), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 787 insofar as it applies to the turnover of RD 32531, PFE 91274 and BRE 75468 to M. Dunn at Detroit, Mich.

Also for reconsigning of FGE 57004, FGE 51919, PFE 50094, NRC 17012, MDT 9430, ART 24468 and NRC 9664 now on hand NYC Toledo, Ohio to Detroit, Mich.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 14th day of November 1947.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 47-10331; Filed, Nov. 21, 1947;  
8:47 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1669]

WORCESTER GAS LIGHT CO. AND NEW ENGLAND GAS AND ELECTRIC ASSN.

### NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 17th day of November 1947.

Notice is hereby given that a joint application-declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), by New England Gas and Electric Association ("New England"), a registered holding company, and its subsidiary, Worcester Gas Light Company ("Worcester"). Applicant-declarants have designated sections 6 (b) and 12 (b) of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than December 1, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said joint application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after December 1, 1947 said joint application-declaration, as filed, or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said joint-application-declaration which is on file in the offices of this Commission

for a statement of the transactions therein proposed, which are summarized as follows:

Worcester proposes, from time to time, to issue and sell at principal amount its unsecured promissory notes to The First National Bank of Boston ("Bank") in an aggregate principal amount of \$750,000. The proposed loan agreement between Worcester and the Bank provides that at any time prior to December 31, 1949, upon three days' notice, the Bank will lend Worcester amounts aggregating \$750,000, each borrowing to be evidenced by a promissory note which will mature December 31, 1952. Notes issued in 1947 and 1948 will bear interest at the rate of 2½% per annum, and notes issued in 1949 will bear interest at the rate of 2½% per annum. The proceeds from the notes will be used for necessary additions and betterments of Worcester's property.

New England proposes to enter into an agreement with the Bank wherein New England agrees, in consideration of the Bank entering into the loan agreement with Worcester, (a) to guarantee the principal and interest of the notes to be issued by Worcester to the Bank, and (b) to subordinate to the Bank the promissory notes of Worcester held by New England in the aggregate principal amount of \$990,000 as at September 30, 1947 plus all future indebtedness of Worcester held by New England.

Applicant-declarants state that the proposed issue and sale of the notes of Worcester are subject to the jurisdiction of the Department of Public Utilities of Massachusetts and attached as an exhibit to the application-declaration

is an order of that department approving the proposed issue and sale. Applicants-declarants state that no other commission, other than this Commission, has jurisdiction over the proposed transactions.

Applicants-declarants request the Commission to enter an order so as to permit the consummation of the proposed transactions as early as possible.

By the Commission.

[SEAL] ORVAL L. DUBoIS,  
*Secretary.*

[F. R. Doc. 47-10330; Filed, Nov. 21, 1947;  
8:46 a. m.]

## DEPARTMENT OF JUSTICE Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 239, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Return Order 59]

### ALFRED EDOUARD LAMARTHE

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith.

*It is ordered,* That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for breach of the agreements included therein, after adequate provision for taxes and conservatory expenses:

Claimant and claim No.	Notice of intention to return published	Property
Alfred Edouard Lamarthe, Paris, France, claim No. 6397.	12 F. R. 6268, Sept. 18, 1947.	All interests and rights created in Alfred Edouard Lamarthe (to the extent owned by claimant immediately prior to the vesting thereof by Vesting Order No. 4000, 9 F. R. 10653, Aug. 31, 1944) by virtue of an agreement, dated Aug. 13, 1938, between Alfred Edouard Lamarthe and Koret, Inc., relating among other things to United States Letters Patent No. 2,142,904, including supplements to such agreement and modifications thereof (including agreements between Alfred Edouard Lamarthe and Fa-Cile Fastener Corp., dated Aug. 7, 1939, and Mar. 8, 1940) and royalties accrued thereunder in the amount of \$4,138.98.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10384; Filed, Nov. 24, 1947;  
8:59 a. m.]

[Vesting Order 9990]

### CARL EMIL SCHEUNERT

In re: Estate of Carl Emil Scheunert, deceased. File D-28-11680; E. T. sec. 15878.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hugo Kirsch, Mindel Feirabend, Ottillie Litschke, Emil Scheunert, Lizzie Feirabend and Hildegard Handke, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Carl Emil Scheunert, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Herman Mueller, Administrator with the Will Annexed, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Sacramento;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are

## NOTICES

not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10381; Filed, Nov. 24, 1947;  
8:59 a. m.]

WALTER C. VOSS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

Walter C. Voss, New York, N. Y., A-446 to A-452, (inclusive); Property described in Vesting Order No. 201 (8 F. R. 625, January 16, 1943) relating to United States Letters Patent Nos. 1,603,565; 1,890,347; 1,988,223 and 2,019,835; and in Vesting Order No. 671 (8 F. R. 5004, April 17, 1943) relating to United States Letters Patent Nos. 2,137,429 and 2,166,881; and in Vesting Order No. 2430 (8 F. R. 16538, December 8, 1943) relating to United States Letters Patent No. 1,997,128.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10385; Filed, Nov. 24, 1947;  
8:59 a. m.]

RAFAEL GIMENEZ RUIZ

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

Rafael Gimenez Ruiz, Makati, Rizal, Philippine Islands; 5332; Property described in Vesting Order No. 295 (7 F. R. 9841, November 26, 1942), relating to United States Patent Application Serial No. 231,430 (now United States Letters Patent No. 2,326,973).

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10386; Filed, Nov. 24, 1947;  
8:59 a. m.]

OESTERREICHISCHE MAGNESIT A. G.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return on or after 30 days from the date of the publication hereof, the following property, including all royalties accrued under the described patents and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses and subject to any increase or decrease resulting from the administration of such property prior to return:

Claimant	Claim No.	Property and location
Oesterreichische Magnesit A. G., Radenthein, Austria	6725	Property described in Vesting Order No. 27 (7 F. R. 4629, June 23, 1942) relating to U. S. Letters Patents Nos. 2,063,543 and 2,231,498 to the extent owned by claimant immediately prior to the vesting thereof. Property described in Vesting Order No. 68 (7 F. R. 6181, Aug. 11, 1942) relating to U. S. Letters Patents Nos. 2,344,387 and 2,316,228 to the extent owned by claimant immediately prior to the vesting thereof. Property described in Vesting Order No. 94 (7 F. R. 6693, Aug. 25, 1942) relating to U. S. Letters Patent No. 2,316,229 to the extent owned by claimant immediately prior to the vesting thereof. Property described in Vesting Order No. 4935 (10 F. R. 7542, June 22, 1945) relating to U. S. Letters Patent No. 2,148,054 to the extent owned by claimant immediately prior to the vesting thereof. 1,886 shares of \$100 par value preferred stock of American Magnesium Metals Corp., registered in the name of the Attorney General of the United States presently in the custody of the Federal Reserve Bank of New York.
	6445	

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10387; Filed, Nov. 24, 1947;  
8:59 a. m.]

quate provision for taxes and conservatory expenses:

*Claimant, Claim No., Property and Location*

Yettchen Behr, Albergo Moderno, Potenza, Italy; 6354; \$1,853.01 in the Treasury of the United States. One (1) \$1500 U. S. Treasury 2 3/4 % Bond, Series 1960-1965, in the custody of the Safekeeping Department of the Federal Reserve Bank of New York for the Attorney General of the United States. All right, title, interest and claim of any kind or character whatsoever of Yettchen (Yettchen) Behr in and to the trust created under the will of Louis A. Behr, deceased; Trustee, Fidelity Trust Company, 343 Fourth Avenue, Pittsburgh, Pennsylvania.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 47-10388; Filed, Nov. 24, 1947;  
8:59 a. m.]